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REAUTHORIZATION OF AIRPORT AND AIRWAY IMPROVEMENT ACT AND AIRPORT AND AIRWAY TRUST FUND

HEARING

BEFORE THE

SUBCOMMITTEE ON AVIATION

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON

REAUTHORIZATION OF AIRPORT AND AIRWAY IMPROVEMENT ACT AND AIRPORT AND AIRWAY TRUST FUND

NOVEMBER 13, 1986

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REAUTHORIZATION OF AIRPORT AND AIRWAY IMPROVEMENT ACT AND AIRPORT AND AIRWAY TRUST FUND

THURSDAY, NOVEMBER 13, 1986

U.S. Senate,
Committee on Commerce, Science,
and Transportation,
Subcommittee on Aviation,
Chicago, IL.

The subcommittee met, pursuant to notice, at 10:30 a.m., in the Dallas Room, O'Hare Marriott, Hon. Nancy Landon Kassebaum (chairman of the subcommittee) presiding.

Staff members assigned to this hearing: Patty Hahn, professional staff member, and Steve Palmer, minority professional staff member.

OPENING STATEMENT BY SENATOR KASSEBAUM

Senator **Kassebaum**. Good morning. It's a pleasure to welcome everyone to our first hearing on the reauthorization of the Airport and Airway Improvement Act of 1982 and the airport and airway trust fund reauthorization.

This is going to be a very important reauthorization, and we will have many hearings on it. This will be the first and last one I will chair for the Aviation Subcommittee, given the results of last week's election.

I have valued both the support that Senator Ford from Kentucky and Senator Exon from Nebraska have given me through my chairmanship of the Aviation Subcommittee and I look forward to working with them.

The reason that we selected O'Hare for the first of our reauthorization hearings is that, one, it's the world's largest airport with over 2,000 flights daily; two, there are 23 satellite airports in the Chicago area, and three, because in many ways it represents all of the successes and frustrations of the system, and for the traveling public today they can be many. Senator Exon just had a few coming in right now and I had a few coming in yesterday and Senator Ford had—I don't think the Senator had any.

Senator Ford. I had no trouble at all.

Senator **Kassebaum**. So we are probably representative——

Senator **Ford**. Did you tell them all you were flying on that plane?

Senator **Kassebaum**. But the questions of traffic volume, and the use by airlines of older equipment needing more maintenance are part of our daily digest of news and the frustrations of the traveling public.

I think that as we focus on these issues and as we look forward to future growth, we have to be very realistic, as well as optimistic, about our airway system. It has much to offer, it is one of the world's greatest systems, but obviously in order to keep it that way we have to evaluate where we are going. That's the purpose of these hearings.

We are here to gather information from witnesses who deal with aviation issues on a daily basis. Those of you testifying today are right there as part of this operation making it work. This information will be beneficial in assisting Congress in drafting legislation to address these concerns and to solve problems which have arisen with previous statutes.

We are happy to have four panels today made up of knowledgeable witnesses representing the aviation industry, local government, community groups and the Federal Aviation Administration.

We will also be focusing today on the airport and airway trust fund, which is made up of revenues, as you know, collected through taxes on airline tickets, aircargo and general aviation fuel.

That fund now contains an enormous surplus of about $4.3 billion. This sum, which is made up of taxes paid by users of our air transportation system, is desperately needed for the types of construction and improvement projects that Congress intended in 1982, when we passed the Airport and Airway Improvement Act.

It has been a constant struggle through this administration and through the last administration to really make use of the moneys in the trust fund for the purposes intended rather than as an offset for unrelated budget deficits. This, I think, is very unfair and has hurt the integrity of the trust fund. I know all of us involved feel strongly that we must make some changes either in the system, that is, in the way that trust fund revenues are projected and used.

Delays in the system, serious overcrowding at airports, inadequate numbers of airports and runways are the problems that must be addressed. New computers and software for an air traffic control system are desperately needed. It is imperative that the aviation trust fund be used to fund the capital outlays, research and development that will be needed to maintain and improve our air transportation system.

I certainly look forward, as I say, to hearing the witnesses today discuss one of the most important pieces of aviation legislation which Congress will address this year. I really am very pleased at the support and interest here at O'Hare today for this hearing and I am also very pleased that Senator Exon and Senator Ford are with me here today.

OPENING STATEMENT BY SENATOR EXON

Senator Exon. Madam Chairman, thank you very much. I appreciate your kind remarks.

I just want to tell you that in coming here we are going to continue the partnership that we have had in the past. We appreciate the total nonpartisan approach that you have always taken to this.

We appreciate the great leadership that you have given this subcommittee. We will carry on as best we can.

I have one announcement this morning that assists the change in leadership of the U.S. Senate. The airlines have taken somewhat of a different approach with regard to smoking. They recognize that Senator Ford, representing a tobacco State, and myself with this pipe, are both for quality of air in the compartment. I think what they will probably do now is create a rather small compartment to the back of the aircraft for nonsmokers.

Senator FORD. Where the seat won't go back.

Senator EXON. I say that facetiously because I——

Senator FORD. I thought you were honest about it.

Senator EXON. No, no, no. I am not going to insist on being able to use my tobacco too much.

We had a great trip in this morning, late, I'm sorry to say. Ron Grear was with me. Ron will be testifying later. He is the manager of the Eppley Airport in Omaha, NE. We got on the plane and it seems that we couldn't take off because, No. 1, the coffee, according to the flight attendant, was not fit to drink; and then the captain announced that there was a leak in the toilet on the aircraft. Ron Grear asked if there was any connection between the two.

So that is the way the morning started. We got lost, Madam Chairman, on the way over here in a cab with a driver from Chicago. But I'm delighted to be with you and I simply want to say that I commend you for your leadership in setting up this field hearing.

It's being held in advance of next year's heavy workload on the reauthorization of the FAA's Airport Improvement Program and the effort to modernize and upgrade the air traffic control system.

This legislation will be a massive undertaking and I look forward to working with you and Senator Ford and the other good people that we have on our Aviation Subcommittee, as well as the other members of the Commerce Committee on the effort that you are kicking off here today.

In the past 4 years we have experienced both success and failure under the Airport and Airway Improvement Act of 1980. For example, during the current fiscal year, exactly $1 billion will be obligated under the Airport Improvement Program to help ease the capacity problem. Yet more is needed—and I emphasize that—to continue to increase the ever growing record passenger travel levels that are due, I think, primarily to deregulation of the industry.

On the other hand, contract slippages and OMB funding requests below the authorized spending levels have slowed this subcommittee's efforts to upgrade the air traffic control system. We must have full funding of this $12 billion effort to maintain the necessary margin of aviation safety, as well as to insure that the projected benefits for this critical program are realized.

On a related matter, let me reference the fact that the President of the United States has just demonstrated his disdain for congressional initiatives by his veto of the National Transportation Safety Board authorization bill for fiscal 1987 through fiscal 1989.

Bringing this subcommittee to Chicago, Madam Chairman, is a positive step. Here at the Nation's busiest airport, of which I am a regular user, we will be able to hear from the expert airport users, air traffic controllers, and community groups.

We will also hear from several airport managers, those people who make these giants work, including Ron Grear, who is at the Eppley Air Field in Omaha, which, of course, is of particular interest to this Senator.

Chicago is unique, in that currently it is undertaking one of the largest airport expansion programs ever by spending more than $1.6 billion at O'Hare. In less than 10 years this expansion is expected to more than double the airport's capacity.

But what will be the impact of these changes on airport users, the effect on nearby residents and on the nationwide airport system? And what about my three major concerns, which are, No. 1, safety; No. 2, safety; and last and third, but not least, safety?

Unless we are successful in improving the overall safety significantly, there won't be a legitimate need for doubling O'Hare's capacity, unless we are going to accommodate freight trains here as well. It would be easier to get more boxcars into O'Hare than airplanes.

Yes, it's true, we have in America the best air traffic control system in the whole world, but I am concerned that it is not good enough. It isn't broke yet, but it sure is badly bent and it needs fixing.

Madam Chairman, staying in Washington inside the beltway, we cannot always get the answers to these important questions and the suggestions from the people that make things go and grow, nor do we get the type of firsthand understanding of how legislation affects the people it was designed to help.

Without that type of input we cannot adequately meet the demands of the traveling public, and I am pleased to join with you here today and Senator Ford. As always, I look forward to working with you in the future.

Senator KASSEBAUM. Thank you very much, Senator Exon.

Senator Ford, do you have any opening comments you would like to make?

OPENING STATEMENT BY SENATOR FORD

Senator FORD. I think I will just make mine brief so we can get on with the witnesses.

Let me, too, compliment you on a fine job, Senator Kassebaum, that you have been able to do; and one point—or two points I would like to make.

One, if we are going to continue to charge travelers a Federal excise tax, we ought to use the money for its intended purpose. If we are not going to use the money, we ought to eliminate those charges. I think that's just as plain as I can say it.

Two, there are a lot of small airports in this country, and small compared to O'Hare is big in a lot of places. They need some help, and with this $4.5 to $5 billion surplus in the trust fund, a lot of things could happen. You could improve the system, you could create jobs.

People are paying for it, they know they are paying for it; and I hope that somewhere along the way, with full cooperation from this subcommittee, that we can find a way to expedite what is so badly needed through the expenditure of what is available and should be used.

Senate KASSEBAUM. Thank you. I really appreciate very much both of you coming today, and I also want to thank those who will be participating in each of the panels.

I would just like to say that we will be timing each witness' testimony. I would like to urge each witness to keep their opening statements to 5 minutes, please, if you will. Statements will be part of the record. That gives us time for a good exchange of questions and answers.

The first panel is in place, and I would like to welcome Mr. Albert Wiseman, president of Airborne Express; Mr. Monte Lazarus, senior vice president, external affairs, for United Airlines; accompanied by Capt. William Cotton, who is manager of air traffic system for United; Mr. Joel Murray, who is chairman and chief executive officer of Simmons Airlines; and Mr. Philip Henderson, president of Henderson Associates.

It's a pleasure to welcome all of you, and I think if there is no objection, we will just start with the way I read the names; and, Mr. Wiseman, if you would like to begin, please.

STATEMENTS OF ALBERT D. WISEMAN, PRESIDENT, AIRBORNE EXPRESS, INC.; MONTE LAZARUS, SENIOR VICE PRESIDENT, EXTERNAL AFFAIRS, UNITED AIRLINES, ACCOMPANIED BY CAPT. WILLIAM COTTON, MANAGER, AIR TRAFFIC SYSTEM; JOEL MURRAY, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, SIMMONS AIRLINES; AND PHILIP HENDERSON, PRESIDENT, HENDERSON ASSOCIATES, LTD.

Mr. WISEMAN. Thank you very much. Airborne has prepared a lengthy written statement, but for the moment I would like to summarize what that statement is.

Airborne Express takes the position that legislation is required to more specifically delineate the responsibilities of the Federal Government and local airport operators for establishing airport access rules based on aircraft noise considerations.

The reauthorization of the Airport and Airway Improvement Act of 1982 and the airport and airway trust fund may make appropriate legislating vehicles to better delineate these Federal and local responsibilities.

Recent experience has demonstrated that locally adopted airport-use restrictions have detracted from the efficient utilization of the Nation's airspace and the airports and are inconsistent with the principles of the Airline Deregulation Act and the Airport Improvement Program after the Airport and Airway Improvement Act.

While recognizing the positions of the airport operators, Airborne believes that additional Federal controls over locally imposed airport noise rules are required. Airborne has urged the FAA to establish a nationwide uniform approach to airport noise regulation.

In addition, Airborne has taken the view that under appropriate circumstances it would support an orderly transition by the industry to an all stage 3 commercial fleet. By linking these two proposals, Airborne believes that airport neighbors would be assured of a quieter environment and air carriers would be assured of reasonable access to our Nation's airports.

Airborne believes other airport access issues require legislation attention. Existing FAA review standards of local noise rules are not adequate to protect the public interest. These standards should be strengthened to insure that no airport rule will either place an undue burden on the interstate commerce or will have the potential to do so.

Another area requiring legislative attention involves air carrier access to the courts to privately challenge the denial of access to an airport. Legislation to clarify that air carriers have a private right of action under applicable Federal statutes is needed.

Thank you.

[The statement follows:]

STATEMENT OF ALBERT D. WISEMAN, PRESIDENT OF AIRBORNE EXPRESS, INC.

Senator Kassebaum, Senator Exon, my name is Albert D. Wiseman, and I am the President of Airborne Express, Incorporated, the airline subsidiary of the Airborne Freight Corporation. Airborne appreciates the opportunity to express its views on the reauthorization of the Airport and Airway Improvement Act of 1982 and the Airport and Airway Trust Fund.

As the Subcommittee is aware, the Airport Improvement Program as set forth in the Airport and Airway Improvement Act, authorizes the Secretary of Transportation to make grants from the Aviation Trust Fund. Among other things, these grants may go for airport noise compatibility planning and projects undertaken pursuant to the Aviation Safety and Noise Abatement Act of 1979. Reauthorization of this grant program is of great interest to Airborne, as is the more general issue of airport access and aircraft noise.

One of the specific policies of the Airport and Airway Improvement Act of 1982 is the continuation of airport improvement programs and the efficient management and utilization of the Nation's airports so to meet the current and projected growth of aviation and the requirements of interstate commerce. Airborne is of the view that historically too little consideration has been given to the need to assure air carriers adequate access to our Nation's airports in order to facilitate interstate commerce. Airborne believes that the reauthorization process being launched here today should include consideration of a uniform, nationwide policy on airport access and aircraft noise.

There is tension between air carriers who engage in interstate commerce utilizing large jet equipment, as does Airborne, and airport operators who seek to restrict access to their airports based on considerations of aircraft noise. This tension must be eliminated, in Airborne's view, if the policy of the Airport and Airways Improvement Act to facilitate interstate commerce is to be properly carried out. The Congress should not allow locally adopted airport use restrictions to choke off access to the system of airports on which air carriers rely. An example of a locally proposed airport use restriction can be found right here in Chicago. I will discuss this locally proposed airport restriction as well as other noise related limitations; but before doing so I would like to briefly describe Airborne and the nature of its operations.

Airborne Express is an air express transportation company providing next day, morning delivery of small packages and documents throughout the United States. Based on the most recent market share figures available, Airborne enjoys a 13.2 percent share of the overnight, morning delivery air express market, second only to Federal Express. In 1985 Airborne transported over 20 million shipments weighing about 200 million pounds. For the first six months of 1986, Airborne's shipment count is up over 40 percent. Airborne's current fleet consists of 32 DC-8 and DC-9 jet aircraft and YS-11 turboprop aircraft. By the end of 1987, Airborne will have in operation 25 DC-9's, 4 DC-8's and 12 YS-11's for a total of 41 aircraft. All of Airborne's jet aircraft are certified by the FAA as Stage 2 aircraft. Based on Airborne's acquisition cost the total financial commitment represented by its fleet approaches $133 million.

Airborne maintains its air hub at Airborne Air Park located in Wilmington, Ohio. From this central point numerous primary and secondary air routes radiate outward to permit Airborne to deliver its cargo to over 75 percent of the zip codes within the 48 contiguous states. Each evening, between the hours of 7:00 p.m. and

12:30 a.m. local time, aircraft depart from the route end points to the Wilmington air hub with each day's deliveries on board. At Wilmington the cargo is unloaded, sorted by destination city and then reloaded onto the aircraft. This sort process occurs within a three hour period from 1:00 a.m. to 4:00 a.m. The aircraft arrive at their destination cities in the early morning hours of from 6:00 a.m to 8:00 a.m. local time. Because Airborne operates during the late night and early morning hours, it is, of necessity, concerned about nighttime noise and its impact on the communities we serve.

Airborne's concern has manifested itself in many ways. First, Airborne developed and patented its own engine noise reduction kits which have been installed on each of Airborne's DC-9 aircraft. Airborne hush kit is so effective that Airborne has sold its noise reduction technology to five other DC-9 operators. Second, Airborne has taken the steps necessary to insure that its DC-8 fleet complies with all Stage 2 certification limits. In this connection, Airborne never sought an exemption from the FAA for the DC-8's to operate as Stage 1 aircraft past the December 1984 cutoff date. Rather, Airborne purposefully chose to first install the DC-8 hush kit prior to placing the aircraft into service. Airborne was not, by design, part of the controversial FAA aircraft noise exemption process. Third, Airborne employs aggressive noise reduction flight profile procedures which go so far as to give priority to noise mitigation over fuel efficiency during the climb-out mode. Finally, Airborne has been actively exploring the options available to it to cause its fleet to reach Federal Aviation Regulation, Stage 3 certification levels and I will describe them for you below. First, however, it will be useful to discuss why Airborne perceived a need to look so seriously at these aircraft options.

Within the last year Airborne has been put to the task of defending its right to continue to operate at two of the nation's largest airports, Boston and Minneapolis/St. Paul. Other airports are also considering or have imposed use restrictions on air carrier operations such as Denver Stapleton and San Francisco International. Further, the FAA in its April, 1986 fleet modernization Report to the Congress identified the fact that literally hundreds of U.S. airport operators have taken action, some major, some minor, to mitigate the effects of aircraft noise.

On a local level, the Illinois Pollution Control Board has had under consideration for several years far reaching airport noise control measures. The proposed rule would prohibit any Illinois airport operator from allowing aircraft operations which would create specified maximum noise levels to fall on land zoned for residential or higher uses. The rule would permit an airport proprietor to be granted a variance from the rule upon a showing that the proprietor has adopted a noise control plan which to the maximum extent feasible considered and incorporated such measures such as curfews, specific numerical limits on nighttime operations, and exclusion of aircraft based on aircraft noise characteristics. Both the Air Freight Association, of which Airborne is a member, and the Air Transport Association, representing the major air carriers in the United States, strongly opposed these proposed state rules. Airborne noted in its most recent submission to the Pollution Control Board that any nighttime curfew at Chicago's O'Hare Airport, at which Airborne operates, could result in the loss of 26 jobs in the Chicago area representing an annual payroll of over $1.2 million.

Airborne believes that as a federally certificated air carrier, and one in full compliance with the FAA noise regulations, it should not have to defend locally its right to conduct flights in interstate air transportation at Chicago O'Hare or any other public-use airport in the United States. Unfortunately, Airborne has reason to believe that many other airports in the future will seek to impose aircraft use restrictions, such as nighttime curfews and limitations on the use of Stage 2 and even Stage 3 aircraft. Indeed, last December when Massport first proposed its nighttime ban on Stage 2 operations Airborne predicted that Massport's actions would precipitate a host of attempts by other airport operators to impose similar restrictions on the air carrier industry. It is no coincidence that the airport operators at Minneapolis and Denver subsequently proposed significant use restrictions for their airports along the lines adopted by Massport. Airborne believes it is appropriate to address this trend toward airport use restrictions as the Senate considers the reauthorization of the Airport Improvement Program.

While Airborne believes a legislative solution to airport noise and airport access issues is required, and should be considered in the context of AIP reauthorization, Airborne has nonetheless been actively exploring the alternatives that are within its control to better assure it has access to the Nation's airport system. One such alternative is the conversion of its DC-9 fleet to Stage 3 certification limits as set forth in the Federal Aviation Regulations.

Several alternatives have been reviewed by Airborne's staff. Airborne has briefed both the FAA and the DOT as to its findings. Airborne started with the proposition that its DC-9-30 fleet of aircraft have 35 years of remaining useful life on their airframes. In addition, these aircraft are properly sized to Airborne's needs for the foreseeable future. Given the high acquisition cost of new aircraft and given that no new aircraft on the market are sized to match Airborne's volume requirements, Airborne narrowed its search to the application of new engine technology to mate to Airborne's DC-9 airframes. In this connection, Airborne set as its standard the need to meet Stage 3 noise levels without the use of the "tradeoff" factor which is permitted under Part 36 of the FAR's. Airborne took this position since it believes that some airport operators may seek to differentiate between Stage 3 aircraft by classifying them as those certified with the use of tradeoffs and those certified without the use of tradeoffs. Those aircraft meeting Stage 3 certification levels without tradeoffs would be favored. Regulation involving the subclassification of aircraft within the Stage 2 category is being practiced today by San Francisco.

Airborne looked first to the U.S. manufacturer of its current engine, the JT8D built by Pratt and Whitney. Without going into too much detail, there are essentially four alternatives available to Airborne if it chooses to continue to use Pratt and Whitney engines. Two of these options, if employed, will not cause the engine to meet Stage 3 limits without relief from a portion of FAR Part 36 which sets the Stage 3 certification limits. Relief is required in Airborne's judgment because the current rules discriminate against two engine aircraft which weigh over 100,000 pounds. Airborne has put this question of relief from Part 36 to the FAA staff. I think it is fair to say that the FAA staff with whom we spoke understand Airborne's criticism of Part 36 as well as the logic on which Airborne's criticism is based. While FAA staff likely disagree with Airborne, Airborne may seek to have the FAA formally review this aspect of Part 36 of its rules as it pertains with two engine aircraft.

The other Pratt and Whitney alternative involves sound attenuation modifications to an enhanced model of the JT8D engine. This engine alternative will meet Stage 3 limits only with the use of tradeoffs and severe weight penalties. The last Pratt and Whitney alternative involves the purchase of a newer Pratt & Whitney engine which does achieve Stage 3 compliance without use of tradeoffs. This is one of the most expensive options for Airborne costing over $7 million per aircraft. In addition, this engine alternative would cause Airborne to lose at least 3,000 pounds of the cargo carrying capacity on each of Airborne's DC-9 aircraft. This loss of capacity which translates directly to a loss of revenue makes the cost of converting Airborne's current DC-9 fleet (including capital costs) exceed one billion dollars over a conservatively projected 20-year project life.

Determining that the U.S. engine manufacturer on whom Airborne has relied had no available technology to permit Airborne to upgrade its fleet to Stage 3, Airborne looked overseas for a solution. There Airborne found another alternative, this one offered by Rolls Royce. Based on an existing engine type, the so-called TAY engine, Rolls Royce believes that it can make available a higher rated engine which can be mated to the DC-9 and meet Stage 3 certification limits without the use of tradeoffs. While the cost of reengining is high (conservatively estimated at approximately $7.5 million per aircraft in current dollars), the modification will not cause Airborne to suffer a significant weight penalty and will produce fuel efficiency savings. Bear in mind that the development of this option is still quite preliminary. Airborne is nonetheless reasonably assured that this reengining program is feasible and that Stage 3 certification levels can be met by the TAY engine. Based on Airborne's projected future fleet of 50 DC-9-30 aircraft, the cost in current dollars of conversion is estimated to be at least $375 million.

In deciding which course to follow, Airborne must know with reasonable assurance that the financial commitment to convert the fleet to Stage 3 will produce a reasonable rate of return. It goes without saying that if airport operators will be free in the future to restrict Stage 3 aircraft (and Minneapolis is considering proposing a nighttime ban on even Stage 3 aircraft) then Airborne may find it difficult if not impossible to make the commitment of funds necessary to quiet its fleet. Consider in this regard the difficulty in financing a project as large as the reengining effort facing Airborne if it cannot advise its lender and stockholders on whom it relies for funds that the aircraft will be useful to Airborne in the long run.

Airborne is on record with the FAA as stating that we do not oppose the long-range objective of reducing aircraft noise at its source. However, the achievement of this objective must, in Airborne's view, be coupled with the equally important objective of insuring the fleet modernization program is carried out without interference from airport operators or local government. No airline can or should be expected to commit the huge sums of capital necessary to quiet the fleet in the absence of a nationwide, uniform approach to aircraft noise—an approach which is lacking today.

The need to consider the reauthorization of the Airport Improvement Program presents an opportunity for the Congress to resolve the conflicts surrounding the important airport access issue. Airborne would offer the following specific plan for federal and legislative action. First, without further delay, the FAA should require airport noise abatement measures prior to implementation. Under current law no airport operator is required to submit to the FAA for its prior approval proposed airport use restrictions. The Airport Improvement Program could be amended to provide for such a prior approval requirement.

FAA approval should only be given after the airport operator has produced a scientifically drawn noise exposure map detailing non-compatible land uses which define the scope of the local noise problem. Only upon FAA approval of the noise exposure map should the FAA be asked by airport operators to consider specific noise abatement measures. Making it mandatory for the FAA to review all local attempts to mitigate aircraft noise will produce two distinct benefits. First, by insuring the noise study is scientifically based, the users of the airport have some assurance that noise measure adopted will be reasonably related to the perceived airport noise problem. Second, more highly developed federal notions of due process will previal. Airborne has found that local airport rulemaking procedures are not injected with the same degree of due process generally employed by federal agencies in rulemaking actions. In the conduct of local rulemaking proceedings, which usually have a high political component, it is important that the due process rights of all airport users including federally certificated air carriers be fully protected.

Coupled with this interim step of prior FAA review of local noise measures, the FAA should proceed to develop appropriate methods to cause the acceleration of the conversion of the commercial fleet to Stage 3. The Congress has already received a report from the FAA outlining several means by which the commercial fleet could be converted to Stage 3. Simultaneously, the FAA should be given the authority necessary to preempt the field of local aircraft noise control. This could be accomplished by appropriate amendments to the Airport Improvement Program. During the period the industry would transition from a mixed fleet to an all Stage 3 fleet, and thereafter, the FAA would be authorized to prohibit airport operators from restricting the local operation of noise complaint aircraft.

The optimum method of reducing reliance on the Stage 2 fleet (which is 80% of the total commercial fleet) will require much discussion as air carrier positions, financial and otherwise, may vary. Airborne would suggest that certain fundamental principles apply when adopting a new fleet modernization policy.

First, given airline market dynamics, the solution must leave to the carriers the greatest amount of operational flexibility consistent with the overall goal of fleet modernization. Highly specific modernization rules may well stunt market growth, innovation and efficiency. Second, the phase-out rules must recognize fully the cost to date of industry compliance with Parts 36 and 91 of the Federal Aviation Regulations, the remaining useful life of Stage II aircraft, and the high cost of converting the fleet to Stage 3. Third, the rules should recognize the noise reduction benefits to be derived from modernization of the fleet, and segments thereof, versus the cost of modernization and the limited mission performed by certain portions of the commercial fleet. Fourth, the rules must take into account the need for appropriate lead time to achieve compliance. Re-equipping or reengining a fleet of aircraft is both time consuming and costly for manufacturers and air carriers alike. Given the limited number of suppliers of equipment coupled with artificially created demand, one can readily perceive the creation of a tight sellers market with attendant higher costs. Fifth, the industry should be assured that whatever rules are adopted that no more restrictive federal initiatives will be considered after passage of the new regime. Likewise, once the industry is on notice of the compliance deadline, no party that is subject to the rule should have the right to seek relief from it. Last, but by no means not least, this phase out program must provide the industry with a single, exclusive set of noise regulations which will supplant any local airport operating rules more stringent than those of the FAA. The Airport and Airways Improvement Act may make an appropriate legislative vehicle in which to consider this federal preemption question.

Airborne believes other airport access related issues require legislative attention which should be considered in the context of this reauthorization process. As noted above, FAA prior review of airport use restrictions is not mandatory under current law. However, even when such review is undertaken by the FAA, the standards used by it in its review process are not adequate to protect the public interest. These standards should be strengthened to insure that no single airport rule will either place an undue burden on interstate commerce or will have the potential to do so. In other words, the FAA should have the authority to look beyond the impact airport use restrictions would have at the implementing airport to determine whether similar restrictions, if adopted by other airports, would burden interstate commerce. Another area requiring legislative attention involves air carrier access to the courts to privately challenge the denial of access to an airport. Legislation to clarify that air carriers have a private right of action under applicable federal statutes is required.

We live today in an urban and highly mechanized world. Part of the price we pay for progress and prosperity is living with the unavoidable consequences of technology, including noise. To unduly restrict the movement of air carriers in interstate commerce in the name of noise mitigation may well diminish our nation's future economic growth contrary to the policies embedded in the Airport and Airway Improvement Act. Given the speed at which jet aircraft cross jurisdictional boundaries and given the need to insulate the commerce of the United States from undue local burdens, Airborne submits that there is a need for a uniform, Federal approach to the issue of aircraft and airport noise. Airborne believes the industry will on reflection support a carefully crafted program of fleet moderization if the Federal Government would at the same time move to preempt all local regulation of aircraft based on noise considerations. Airborne would welcome the opportunity to work with the Subcommittee and its staff to craft such a legislative program.

Senator KASSEBAUM. Thank you very much.

I think what we will do, if it's all right with everybody, is hear everyone's testimony and then ask questions of the panel.

Mr. Wiseman finished in less than 5 minutes and we hardly know how to handle that. Thank you very much.

Mr. Lazarus.

Mr. LAZARUS. Madam Chairman and Senator Exon and Senator Ford, we very much appreciate the fact that you came to cold Chicago and we also appreciate the opportunity to testify on the reauthorization of the Airport and Airway Improvement Act of 1982.

I will not repeat our full statement, but ask that it be made part of the record.

With the expiration of the funding mechanism for the aviation trust fund at the end of 1987, Congress will be facing a—what we think will be a great debate on the future of the airport and airway system; and it's a little bit ironic that the original aviation trust fund was created in the late 1960's as a result of air traffic delays, the same kind of situation we are facing today.

Airline traffic has zoomed to exceed 400 million passengers in 1986 and meanwhile the number of delays has been increasing. We detail some more of the factors on delays in our full statement. I won't repeat them, but I point out that by July of this year all such delays, regardless of duration, caused our industry's situation to result in an average daily total of 2,500 hours of delays attributable to a factor over which we and the consumer have no control; and that's the failure of the infrastructure to meet public demand.

If you relate that to the industry's current fleet of 3,000 aircraft and the reasonable economic goal of 10 hours' utilization per airplane, we are effectively losing the utilization of 250 jet aircraft per day due to the dictates of the system. That's one-twelfth of our fleet and we think it's unacceptable.

If you look at it in terms of the year's productivity, it's 1 month lost; and I'm sure you will agree that the failure to improve the system is unconscionable, when we have the surplus that Senator Ford referred to; and we agree, either spend it or cut it out.

There is no need to charge the consumer and the shipper and the general aviation user the fees that are being charged if we are not going to use them to improve the system. In 1985 alone that cash balance grew by over $1 billion, and I think you are as familiar as we are with the numbers of the amounts in the fund.

If we put this all into perspective of United's major hub in Chicago, between 1979 and 1983 O'Hare generated $490.8 million in ADAP funds. In that same 5-year period, of that $490.8 million only $37.1 million was returned to O'Hare; and to us that is local demonstration of the inadequacy of the system to meet the needs.

There are in our view some measures that can be taken to improve the system. One, as a short-term measure we have supported congressional efforts to take the trust fund off the unified budget. There it's an irresistible urge to the bookkeepers with the green eyeshades to use it to reduce the Federal deficit. Clearly a function which is self-sufficient, it is essential to safe and efficient operations; and speaking of that, that's why Cap. Bill Cotton is here with me today. He is our chief safety officer and he can answer any questions on the safety issue.

Next, the ATC system simply doesn't have enough people. In 1981, before the controllers' strike, there were more than 16,200 controllers. In 1986 we are going to have 3 million more aircraft operations handled by air control centers than back in 1980, and there are 3,000 fewer controllers today than there were at that time.

Of the 20 air traffic control centers in the United States, 7 have been identified as being critically short of controllers; and Chicago is one of those centers. We must rebuild that force.

I see my time is up. We have a more complete statement talking about our support for a new national aviation authority. We commend it to your attention and we hope that you will entertain that proposal when Congress resumes next session.

Thank you very much.

[The statement follows:]

STATEMENT OF MONTE LAZARUS, SENIOR VICE PRESIDENT—EXTERNAL AFFAIRS, UNITED AIRLINES

Madame Chairman and Members of the Senate Aviation Subcommittee, United Airlines very much appreciates the invitation to appear today and express our views on the reauthorization of the Airport and Airway Improvement Act of 1982, and the Airport and Airway Trust Fund. As Chicago's largest airline, we particularly appreciate the effort you and the Subcommittee have made in travelling to Chicago for the Hearing.

With the expiration of the funding mechanism for the Aviation Trust Fund at the end of 1987, Congress will next year be involved in a great debate concerning the future of the airports and airways system of the United States. In all likelihood, the debate will focus heavily on what is predicted to be an unprecedented and unacceptable level of air traffic delays. Ironically, it was a similar debate on air traffic delays in the late 1960's which led to the original creation of the Aviation Trust Fund.

As airline traffic has zoomed to exceed 400 million passengers in 1986, the sum total of delays not caused by aircraft mechanical and airline operational problems has been rising. While the FAA has traditionally counted only those delays lasting more than 15 minutes, that calculation understates the impact on the airlines—and the travelling public. By July, counting *all* such delays regardless of duration, our industry's operations were subjected to an average daily total of 2500 hours of delays attributable to a factor over which we and the consumer have no control—the failure of the infrastructure to meet public demand. If you relate that the industry's current jet fleet of 3,000 aircraft and a reasonable economic goal of 10 hours' utilization per aircraft, we are effectively losing the utilization of 250 jet aircraft per day due to the dictates of the infrastructure. One-twelfth of our fleet. One month taken off the top of the planned year's productivity for our airline industry. To the flying public, the lost time and money—represents a multibillion dollar pricetag.

I am sure you will agree that the failure to improve the air traffic control system is unconscionable when you consider that the money needed to build a truly supportive infrastructure, a surplus of $4.3 billion, sits unspent and currently unspendable in the Aviation Trust Fund. To that Fund we all pay an 8% passenger ticket tax, and a 5% cargo waybill tax, and a $3 international departure tax. In addition, general aviation operators pay a 14 cents per gallon fuel tax for jet fuel or a 12 cents per gallon fuel tax on aviation gas.

Unfortunately, by the time the FAA's budget needs are run through the wringer of reviews by DOT, OMB, and the various Congressional committees with jurisdiction over budget resolution and appropriations matters, expenditures are far less than the resources. In FY 1985 alone, the cash balance in the fund grew by $1 billion. That, in large part, is why the much-heralded $11.7 billion National Airspace System Plan, fed by the facilities and equipment account, has thus far been underfunded by $1.2 billion, and is already over one year behind schedule—just four years into the ten-year life originally contemplated by FAA and the Congress in 1982.

To put this all into the perspective of United's major hub, Chicago, between 1979 and 1983, O'Hare generated $490.8 million in ADAP funds. In that same five year period, only $37.1 million was returned to O'Hare. To us that is demonstrative of the inadequacy of the expiring program to meet the needs of the major airports.

What is the answer to this intolerable situation from United's and the airline industry's point of view?

We must look at short term measures and longer term changes that will expand the capacity of the Air Traffic Control system. The components of expanded capacity are many: budget, manpower, technical procedures, improved technology, and structural change to existing organizations.

As a short term measure we have supported Congressional efforts to take the Trust Fund off the unified budget where it represents an irresistible temptation to bookkeepers wanting to make the staggering federal deficit appear somewhat smaller. And clearly, a function which can be demonstrably self-sustaining, is essential to safe and efficient operations, and generates greater economic productivity should not be susceptible to automatic sequestrations under Gramm-Rudman-Hollings. Monies for necessary improvements should be spent, and spent promptly from that mind-boggling surplus to enhance the capacity of the infrastructure.

Next, the ATC System doesn't have enough people. In 1981, just before the Air Traffic Controllers' strike, there were more than 16,200 controllers. In 1986, there will be 3,000,000 more aircraft operations handled by the air control centers than there were in 1980—but, there were 3,000 fewer controllers now than there were then. Chicago has been particularly hard hit by these manpower problems. Of the 20 air route traffic control centers in the United States, seven have been identified as having critical staff shortages. Chicago is one of those seven. Expanded hiring and expedited and more efficient training procedures are needed now.

Just a few weeks ago, as Congress adopted the FY87 spending bill, the DOT conference agreement included three statutory controller workforce requirements that the FAA must satisfy by September 30, 1987—

Total air traffic controller workforce level of not less than 15,000;

70 percent of those controllers who are eligible shall have achieved full performance level status; and

At least 60 percent of those individuals who are eligible shall be full performance level controllers at each en route air traffic control center and each "level 3" or above terminal.

We are gratified by Congress' concern over increasing the controller workforce but believe the Congressional goals remain short of actual requirements.

In the meantime, we believe the system can begin to expand within current staffing levels and without compromising safety.

For example, modifying in-trail requirements which requires no new technology could substantially increase capacity throughout the system. Additional arrival and departure fixes are needed at some airports just to keep up with available runway capacity. As a result, when predicted flow restrictions do not materialize, there is no reservoir of traffic ready to take advantage of available capacity. We could return to more reliance on vertical separation rather than "miles-in-trail" and begin curtailing flow control in favor of more traditional enroute control techniques.

Those procedures were standard before the controllers' strike and we believe it is legitimate to ask why procedures that worked so well then are not being used today.

But those are only the essential steps for the near term. What is also urgently needed is a fundamental change in the management and funding of the airport and airways program. The present FAA structure, with its applicable budget, personnel, and procurement requirements, does not permit effective, business-like decision-making and innovative planning of the kind required to operate the air traffic control system—a system established for the predominant purpose of meeting public demand and paid for predominantly by the using public. To resolve those deficiencies, our industry has proposed the creation of a new National Aviation Authority, to which the management and funding of that vital infrastructure would be transferred from the FAA. Such a transfer is essential if we hope to ensure meaningful long-range planning, operational flexibility, quick responses to changing demand for services, and greater productivity.

The National Aviation Authority would be self-sustaining on the basis of user fees, at the levels currently flowing to the trust fund, with authority to adjust fees after the first two years to meet needs, provided that the existing proportionality among the users is maintained. In addition, the corporation should have borrowing authority, employ government personnel free from the strictures of Civil Service requirements, and be authorized to utilize business type procurement practices.

As to scope, the proposed NAA would encompass all air traffic control components, including Research and Development, and, with the concurrence of the airport community, an airport grant program. FAA safety functions would not be included in order to permit the FAA to focus exclusively on that vital role. Existing arrangements between the military and the FAA would be maintained by the new Authority, and all services provided by either to the other would be reimbursable. The relationship between the National Transportation Safety Board and the Authority would be the same as the NTSB now has with the FAA with respect to air traffic control issues within the Authority's jurisdiction. Consistent with the treatment of other government corporations, liability would be treated in accord with the provisions of the Federal Tort Claims Act. Litigation would be handled by the Justice Department and damages paid from general fund revenues of the Treasury.

As a matter of fairness we would anticipate a full transfer of the existing trust fund balance to the new authority along with all system assets, so that the money collected for this promised but increasingly distant modernization can be spent for the purpose intended.

As to its management, the authority would be under the control of a strong, independent Chief Executive Officer appointed by the President with the advice and consent of the Senate for a 10-year, non-renewable term. Some one person needs to be accountable and to have authority to run this operation in the interests of all users and public demand. Qualifications for the position would be established in the statute which would also provide for an attractive level of compensation and retirement benefits. The CEO would be removable only for cause. To assure oversight of the best quality and by the most interested segments of Congress and the Executive branch there would be a Policy Advisory Board which would meet at least semi-annually. While the Board would not have governing powers which could confuse or hinder the ability to manage the system, it would—importantly in our view—consist of the Secretaries of Transportation, Defense and Commerce, and the Chair and ranking minority members of the Senate and House Aviation Sub-Committees.

In addition to the Advisory Board, there would be a Technical Advisory Committee of users and other interests to provide appropriate input to the Authority.

On the airways side of the NAA—the enhancement and operation of the air traffic control system—we know the system to be both labor and technology intensive. Yet it is in these two areas—personnel rules and the procurement of new and better equipment—that the current FAA structure has its greatest disadvantages. Traditional Government personnel and procurement practices are notoriously cumbersome and illsuited to operational responsiveness. It is for this reason that the Congress has in the past seen fit to create government corporations exempt from these strictures—a move we would urge once again.

On the airports side, the airline industry has been encouraging airport operators to come forward with innovative improvements to the airport grant program to see to it that available revenues are used to their fullest potential. We are convinced that the NAA structure would provide the best vehicle for such improvements.

That summarizes our proposal. The proposal realistically addresses many of the medium and long-term needs of the aviation community and the travelling public. Equally important, it would produce a government corporation better equipped to respond to changing conditions and to address future problems as they emerge. A great deal must also be achieved for the short term. In an era of intensifying pressures to reduce the deficit, we believe that situation will only worsen over the years without decisive action. The expiration of the Airport and Airway Improvement Act in 1987 requires decisive action now if a future free of delays, enormously costly to us all, is to be avoided.

Senator **Kassebaum**. Thank you very much, Mr. Lazarus.

Mr. **Murray**. Madam Chairman, Senator Exon, Senator Ford. I hope, Senator Exon, that when you restore pipe smoking to the airline, you will also restore cigar smoking.

Senator **Ford**. Oh, I want to tell you, Kentucky is on the move.

Mr. **Murray**. Let me say at the outset that I support the comments made by Mr. Wiseman and Mr. Lazarus in their opening statements, and on behalf of Simmons Airlines we not only subscribe to them, but we agree with them wholeheartedly.

The issue that I would like to testify on today, however, is somewhat akin to them, but slightly different. Regional air carriers and other new entrants are being unjustly discriminated against by airport authorities which receive funds under the bill that's under discussion today. This unlawful discrimination has had and will continue to have a deleterious effect and impact on essential air transportation.

All of these things are directly and specifically proscribed by the act by section 2201(a)(5). It appears to us that these unjust and discriminatory practices by these airport authorities have not adequately or previously been brought to the attention of the Congress, and I'm here to do so today.

I cited in my testimony, for example, that at Detroit Metropolitan Airport, a nonsignatory, a nontenant, a nonlessee, is required for reasons known only to the Detroit Metropolitan Airport to pay a 3-cent-per-gallon surcharge on fuel pumping.

Simmons Airlines today utilizes in excess of 3 million gallons of jet fuel a year at Detroit Metropolitan Airport, resulting in a cost to Simmons in excess of $100,000 a year, which is a fee not paid by United or American or any of the signatories or any of the lessees at that airport.

Likewise, at Milwaukee at Billy Mitchell Field, Simmons is not a signatory to the airport lease agreement; and both at Detroit and Milwaukee and at other locations, including O'Hare, we are not a signatory, because we cannot become a signatory because they do not have space to lease to us; and if they do have space to lease to us, it will go first to the major carriers, who are incumbents, who customarily and frequently shuffle their space amongst themselves and treat the airport as though it were their own and not the public's; and as a result at Milwaukee nonsignatories are required to pay a 20-percent additional landing fee above and beyond the landing fees generated by aircraft of similar weight flown by other air carriers who are signatories.

These are two rather glaring examples of situations where a regional air carrier—and Simmons has been the first or second fastest growing regional air carrier in the United States over the past 5 years—cannot gain access on an equal, just, and nondiscriminatory basis with the major air carriers, who are incumbents at these airports.

It seems to me to be patently unfair for Federal tax funds to be used to support airports which discriminate against certain air carriers. That is the import of the current law. Some teeth should be put into that law and if it is reauthorized, funds should be withheld from airports which discriminate.

This is just one of many examples. It does not affect merely Detroit and Milwaukee. It affects O'Hare, it affects smaller airports, like Midland, Bay City, Saginaw, Youngstown, OH, and a number of other smaller airports.

So, in conclusion, we are opposed to the reauthorization of the act, unless some specific provisions contained in that act prohibit the dispensation and distribution of funds to airport authorities who discriminate against and have a direct impact upon essential air transportation provided by regional carriers and new entrants.

Thank you.

[The statement follows:]

STATEMENT OF JOEL MURRAY, CHAIRMAN AND CHIEF EXECUTIVE OFFICER OF SIMMONS AIRLINES

Joel Murray has been Chairman of the Board of Simmons Airlines, Inc. ("Simmons" or the "Company") since July, 1980, and its Chief Executive Officer since September, 1982. Mr. Murray engaged in the practice of law in Chicago from 1964 to 1979.

Simmons is a large regional air carrier currently providing scheduled air service to 32 cities in Michigan, Illinois, Wisconsin, Ohic, Indiana and Minnesota. The Company provides airline service from small and medium size cities in the Great Lakes area to the metropolitan hubs of Detroit and Chicago. Most of the Company's passengers connect with Northwest Airlines ("Northwest") at Detroit Metropolitan Airport or American Airlines ("American") at O'Hare International Airport ("O'Hare") in Chicago.

The Company commenced airline operations in October, 1978 and has expanded rapidly. The number of passengers carried by Simmons has increased from 77,000 in fiscal 1982 to 985,000 in fiscal 1986 and revenue passenger miles have increased from 14,305,000 in fiscal 1982 to 158,316,000 in fiscal 1986. Revenues have increased from $6,700,000 in fiscal 1982 to $70,800,000 in fiscal 1986. The Company has been profitable in each of the last five fiscal years.

The Company currently operates all of its scheduled flights under joint services agreements with American and Northwest. Since October 1, 1985, the Company's flights serving Chicago have operated under the name AMERICAN EAGLE and been identified in computer reservation systems and the Official Airline Guide by American's "AA" designator. Since October 1, 1986, the Company's flights serving Detroit and Minneapolis/St. Paul have operated under the name NORTHWEST AIRLINK and been identified in computer reservation systems and the Official Airline Guide by Northwest's "NW" designator.

The witness is opposed to the reauthorization of the Airport and Airway Improvement Act of 1982 (the "Act") and the Airport and Airway Trust Fund unless such reauthorization specifically requires strengthening of Section 2201(a)(5) of the existing Act, which section is intended to prevent unjust and discriminatory practices. That subsection reads as follows:

The Congress hereby finds and declares that—

(5) all airport and airway programs should be administered in a manner consistent with the provisions of sections 1302 and 1303 of this title, with due regard for the goals expressed therein of *fostering competition, preventing unfair methods of competition* in air transportation, maintaining essential air transportation, *and preventing unjust and discriminatory practices.*" 49 U.S.C. § 2201(a)(5) [emphasis added].

It has been our experience as a rapidly expanding regional air carrier that we are frequently subjected to practices that not only impede entry into new markets but often result in the payment of facility rental or user fees that exceed the rates paid by other airport tenants for the same space or services.

At Detroit Metropolitan Airport we operate 82 daily flight departures and require ramp parking and gate facilities to accommodate nine (9) simultaneous aircraft operations. The facilities we occupy are an integral part of our coordinated services agreement with Northwest Airlines. Without such an agreement it is not likely that we or any other carrier wishing to enter the Detroit market could independently obtain facilities of this size from the airport. Northwest as the lessee pays the basic space directly from the airport, we are required to pay a three cent per gallon fuel pumping fee surcharge which is paid to the airport. We pump approximately 3,000,000 gallons of fuel each year at Detroit.

Similarly, we sublet gate and ramp space at Milwaukee's airport from American Airlines as there is no space that can be leased directly from the airport. As we do not lease space directly from the airport, we are required to pay the airport a 20% surcharge on landing fees which is not charged to those carriers which lease space directly from the airport.

In Youngstown, Ohio, Simmons subleases gate and counter space from United Airlines due to the unavailability of other space. It was recently learned from a Youngstown city official that the rent paid by Simmons to United Airlines is over four times greater than the rent paid by United Airlines to the City of Youngstown for that very space.

Regional carriers and new entrants at Chicago's O'Hare are left no choice but to sublease facilities from existing air carrier tenants. Our Company operates 55 daily departures from O'Hare and utilizes facilities that are subleased from American Airlines. Because there is no unoccupied gate or ramp space available at O'Hare, it would be impossible for Simmons to conduct an operation of this or any other size at O'Hare absent the sublease from American.

All of the above-described situations faced by Simmons stem from a general shortage of gates, counter, ramp and other ground facilities at many airports. It is our experience that many airports have leased most of their space to major trunk carriers under long-term leases. This practice, together with the general shortage of available ground facilities, forces regional carriers and new entrants to sublease space, when such space is available at all, from the major carriers, resulting in the regional carriers and new entrants paying higher rental rates and being subjected to discriminatory user fees due to their classification by various airports as "nontenants".

The common practice of leasing most of an airport's ground facility space to a few major carriers under long-term leases also has created a situation where the various airport authorities have abdicated to those major carrier tenants the airport's ability to control the imposition of unjust and discriminatory fees and rentals. Section 2210(a)(1) of the Act prohibits the approval of an airport development project contained in a project grant application if the subject airport does not require that each air carrier using such airport shall be subject to non-discriminatory and substantially comparable rates, fees, rentals and other charges, "subject to reasonable classifications [of] such as tenants or nontenants." Unfortunately, for Simmons and many other regional carriers and new entrants, a subtenant, as discussed previously, is frequently treated as a class distinct from regular tenants of the airport and are, thereby, subjected to discriminatory rates, fees, rentals, and other charges.

In all of these situations the airport operators are recipients of federal funds made available by the Act. Clearly, Simmons, as a large regional carrier and a new entrant, does not receive the equal treatment that is envisioned by the Act. If the Act is to be extended, it is this witness' opinion that it should be amended so as to allow regional carriers and new entrants to compete on an equal footing with other federally-funded airport users for scarce ground facilities without being subjected to discriminatory fees.

This concludes my prepared statement. I will be pleased to answer any questions you may have at this time.

Senator KASSEBAUM. Thank you very much, Mr. Murray.

Mr. Henderson.

Mr. HENDERSON. Madam Chair and members of the subcommittee, thank you. I am Phil Henderson, president of Henderson Associates, Ltd., of Batavia, IL, a business aviation and consulting firm. I also perform public relations service for Monarch Air Service, Inc., a fixed-base operator base at Midway.

In addition, I recently retired from Natural Gas Pipeline Co. of America, where I served as aviation director for 21 years.

My aviation career began in 1940. Since 1955 it has been centered in the Chicago area. Thus, I have some 31 years experience with business aviation in the Chicago area; and it is from this perspective that I wish to speak to you today.

I request that my written statement be entered into the record and I be allowed to summarize and extend it.

My emphasis will be on three areas of national policy that need improving. The airport and airway trust fund is grossly underutilized, and I echo Senator Ford's philosophy if the tax on fuel is continued—continued to be collected, it must be spent.

One operator at Midway Airport collects over $360,000 per year in trust fund moneys and sends it to the U.S. Government. By interpolation that is approximately $1.2 million collected by all general aviation operators at one airport and forwarded to the trust fund.

Only in the past 2 or 3 years has any trust fund moneys been spent at Midway. If the Federal Government collects the money they should spend it as—use it as intended.

The flight service station for the Chicago area is now based at DuPage Airport. It moved to DuPage approximately 20 years ago from Joliet Airport. In the flight service station modernization program DuPage lost out to the Kankakee Airport for the modernized FSS because Kankakee was willing to build a building and lease it to the FAA for $1 a year.

The building at Kankakee has been completed for over a year. The FSS has not moved, reasons unknown. Meanwhile many FAA employees have purchased homes in the Kankakee area. They are either commuting or have the burden of two mortgages.

The latest unofficial moving date is April 21. I wonder how much money FAA has spent on rent, expenses, et cetera, since the new quarters were first ready for occupancy and how much ill will has developed because of indecision in setting a moving date and sticking to it.

A few words about the lack of a national noise policy. Midway Airport in Chicago, as perceived by the neighbors, has a noise problem. The clamor for shutting down Midway from 10 p.m. to 7 a.m. has been blunted by the promise that a part 150 noise study would be made. This study has been languishing for many months. If no positive action is forthcoming, Midway Airport may be embroiled once again spending all their energies placating their neighbors.

DuPage Airport is embroiled in a fierce battle with local antiexpansion forces that have delayed much needed improvements to the airport. Noise is one of the big guns used by the opposition.

Aurora Airport seems to be faring better than Midway or DuPage Airports. They have profited from the DuPage syndrome and formed a noise committee to study and recommend improvements that will minimize the noise impact on surrounding communities, thus minimizing opposition to development. Then the energies and moneys of the local airports could be used for constructive purposes rather than combating allegations and innuendoes.

As a thought, a non-FAA publicity firm should be funded by the FAA to provide positive facts to the public to preclude the negatives from getting started, thus improving the image of aviation.

Thank you again for allowing me to appear before you today. I will be happy to answer any and all questions you may have.

[The statement follows:]

STATEMENT OF PHILIP B. HENDERSON, PRESIDENT, HENDERSON ASSOCIATES, LTD.

Madam Chair and Members of the Subcommittee: Thank you. I am Phil Henderson, president of Henderson Associates, Ltd., of Batavia, Illinois, a business aviation consulting firm. I also perform public relations services for Monarch Air Service, Inc., a fixed-base operator at Midway Airport. In addition, I recently retired from Natural Gas Pipeline Company of America, where I served as Aviation Director for 21 years. My aviation career began in 1940 and, since 1955, has been centered in the Chicago area. Thus, I have some 31 years' experience with business aviation in the Chicago area and it is from that perspective that I wish to speak to you today. I appreciate the opportunity to present some thoughts on the Airport and Airway Trust Fund, its future under reauthorization of the expiring Airport and Airway Improvement Act of 1982 and how Congress might address and hopefully moderate some of the aviation-related problems experienced in the Chicago area.

In general, I feel the Airport and Airway Trust Fund is grossly underutilized. Various reports indicate the balance of the user-derived revenues currently reposing in the Fund approaches nine billion dollars. Further, it is my understanding that the current situation has been in the making since the Trust Funds's inception. While a portion of this money is obligated for future years, that still leaves a sizable amount which is sitting idle and not serving its intended purpose. Of course, it is that purpose which I am here to discuss today.

As the Subcommittee should know, business aviation is unique among the various aviation activities. It provides American business with efficient, safe, on-demand air transportation to enable it to meet deadlines and quickly travel to diverse destinations not served or ill-served by the airlines. In order to maximize its effectiveness, business aviation must continue to have equal access to all airports and all airspace. Unfortunately, as congestion grows and capacities are strained, business aviation's ability to reliably operate becomes threatened. In the Chicago area, this threat is manifested in numerous ways.

Many steps can be taken by Congress in reauthorizing the 1982 Airport and Airway Improvement Act to address Chicago's airport and airway congestion problems. In addition to ensuring an adequate funding mechanism exists, a task which has only been partially accomplished, examples include continuing the much-needed improvements in the air traffic control system, both locally and on a national scale, ensuring adequate airport facilities exist to serve present and future needs and acting to prevent incompatible local concerns from conflicting with the national need for a comprehensive air transportation system.

AIR TRAFFIC CONTROL

The nation's air traffic control (ATC) system has received a great deal of attention in recent years. Many decry what they perceive as a diminution of safety, pointing to the numbers of near mid-air collisions and runway incursions as leading indicators. However, the primary indicators of how well the air traffic control system is operating is the number of delays and degree to which circuitous routings are employed. These indicators show that the ATC system is strained.

In the aftermath of the August, 1981, PATCO strike, stringent restrictions were placed on the flow of air traffic to compensate for a lack of controllers. Since that time, most of the restrictions have been lifted as the number of available controllers has increased. However, the system's capacity has not expanded to meet the increases in demand which have occurred since 1981. Thus, artificial constraints have been imposed to compensate. When considering airport and airspace congestion, it is important to remember that runways at reliever airports cannot be effectively utilized if they are not properly served by the air traffic control system. Proper ATC service to business aviation requires the interaction of approach and departure navigational aids, radar service and controllers at airports, approach and departure control facilities and in the air route traffic control center. In the Chicago area, the use of reliever and outlying airports is constrained by inadequate radar service at approach altitudes, lack of precision approach capabilities and inadequate distribution of the existing controller workforce.

For example, at many airports in outlying areas, radar service cannot be provided by ATC below certain altitudes. While some might consider this a safety problem, in reality it is a capacity problem as non-radar approach and departure procedures are much more time-consuming and require more circuitous routings than would be the case in an adequate radar environment. Repositioning existing radar transmitter sites and adding additional ones would alleviate this problem.

Even if adequate radar coverage exists with respect to a given airport, the airport will not be used by business aviation if sufficient precision approach and navigational aids are not available. Indeed, during periods of inclement weather, lack of approach equipment such as ILS or MLS effectively closes many outlying airports, forcing operators to use those which have the equipment and, not coincidentally, are approaching saturation. The same is true for en route navigational aids. Without adequate numbers or, worse, proper positioning of existing aids, capacity becomes strained and routings become more circuitous.

Contact with ATC at non-tower airports is also a problem. When not in radio contact with ATC during an approach or departure, operators are required to telephone the local facility to close a flight plan upon arrival or to obtain a departure clearance before takeoff. In addition to the delay experienced by the landing or departing operator, this cumbersome method of contact with ATC results in delays to other traffic as ATC cannot assure separation without being in contact with the flightcrew. Also, the availability and quality of services offered by the Flight Service Stations (FSS) in the area, which often serve as the "middle-man" between flight crews and ATC, are mostly inadequate due to manpower shortages and out-dated equipment.

Solutions to these problems include installation of remote communications outlets, which would allow aircraft on the ground to maintain radio contact with ATC, increased FSS staffing and installation of improved FSS weather collection and dissemination equipment.

The distribution of the available controller workforce in the Chicago area is also a problem. For example, the ATC tower at the Aurora airport, a part-time facility, currently has a staff of 14. This number of controllers is more than adequate for the airport. If some of these controllers were transferred to the approach/departure control or to the center, their skills would be much better utilized.

AIRPORTS

For years O'Hare International Airport has been the world's busiest. It has also been the subject of various proposals for expansion, even though proposed expansion would be limited. However, each proposal has been met with howls of protest from the municipalities surrounding the airport. The protests derive from generally unfounded fears of increased airport noise and surface traffic to decreased air safety. In addition, indecision and poor management on the part of the City and local governments has delayed planned improvements to existing facilities. The net result has been inaction while an intolerable situation only worsens.

Other airports in the region, such as Midway, Meigs, Palwaukee, DuPage, Aurora and Waukegan in Illinois and Gary, Indiana, which are designated as relievers for O'Hare, suffer from the same chronic inability of local government to decide on means to address these problems.

In the case of Midway, which is closely bordered by residential development, the situation has been exacerbated recently by its resurgence as an air carrier airport. Long though of as the general and business aviation reliever for O'Hare, its use as an air carrier airport has resulted in more congestion, noise and an increase in local complaints. Of course, this has been to the detriment of business aviation, which, even though encouraged in past years to use Midway, is now often though of as being the reason for the recent increase in use resulting in Midway's new congestion and noise problems. Meigs Field has not been exempted from these problems, either. When the City was making its now-defunct plans to bring the World's Fair to Chicago, incredibly, those plans called for the closure of Meigs to make room for the Fair. Although the plans also included re-opening a "new, improved" Meigs after the Fair, no one seriously believed that would be the case. Indeed, now that those plans have been abandoned, supposedly opening the door for improvements, nothing whatsoever has happend to suggest Meigs might be improved.

The problems of Midway and Meigs are not peculiar to the local area. Anticipation of increases in aircraft-generated noise and unavailability of suitable land constrict the development and viability of numerous airports throughout the country. Part 150 airport noise compatibility study funds simply have not been forthcoming as they should. More funds should be available for land acquisition and installation of sound-proofing insulation in nearby residences. In addition, local zoning policy should not allow continued residential development near airports but should reserve such areas for industrial and commercial use.

Another example is the closure of airports, such as that pending at the Chicago-Crestwood Airport, which is just south of Midway. When an airport is closed, rarely is another build to take its place. In the meantime, the aircraft formerly based at a closed airport do not disappear. Instead, they are moved to another airport nearby, thereby adding to its congestion. The same is true for transient aircrat—they still fly into the area and must land somewhere. Without an adequate number of airports to serve them, congestion worsens.

Since the vast majority of the airports around the country which close are privately-owned, public-use fields, one remedy to this problem is expansion of the use of airport grants from the Trust Fund. Federal funding should be allowed for public-use, privately-owned airports, especially when considering both the huge balances in the Trust Fund and the positive contributions such airports can make to relieving congestion at larger, nearby airports.

Joint use of military airports is another avenue which should be pursued by Congress. Recent studies have indicated that numerous military fields are under-utilized and that civilian access can be allowed without upheaval or diminution of the military's role. An example of a military field in the Chicago area which could be effectively shared by business aviation and the military is the Glenview Naval Air Station.

Inadequate equipment and facilities at reliever airports creates problems also. While I have already discussed navigational aids, radar and controller staffing, other examples include purchase of snow removal equipment, lengthening existing runways where possible, and construction of new runways, taxiways and parking aprons to increase outlying airports' capacity to relieve O'Hare, Midway and Meigs.

Another means by which airport congestion can be alleviated is through encouraging the use of helicopters. Heliports located in strategic downtown areas can alleviate some of the pressure on local airports. Many of the transient aircraft in the Chicago area are from nearby cities, a typical operation well-suited to helicopters. If suitably-equipped and strategically-located helicopter landing areas were available to serve such operations, flights to and from local airports would be reduced. The same is true throughout the nation. Well-equipped heliports are much cheaper and have less impact on the environment than similarly-equipped airports. However, local concerns about heliports and helicopters have resulted in inaction.

I understand that the recent National Plan for an Integrated Airport System (NPIAS) states that five new airports are needed in the Chicago area alone in the next two decades. The solution proposed in the NPIAS, construction of these airports in areas where they can do the most good, simply will not occur. Thus, other solutions must be pursued. I have outlined several of them for you. However, the most urgently-needed solution to these problems is creation and enforcement of a Federal policy relating to preemption of local opposition to airport construction and development.

FEDERAL AVIATION POLICY

As a long-term observer of and participant in Chicago area aviation activities, I can only conclude that many of the problems I have outlined derive from and are magnified by the chronic and simple inability of the City of Chicago and other area municipalities to work together toward mutually acceptable solutions. These problems are also apparent on a national scale. Local concerns related to perceived noise and safety have resulted in paralysis—an inability to plan for and implement needed changes and improvements. Even if the Chicago area did not play a major role in American business and the domestic economy, this would not be tolerable. Instead, these local concerns, which pale in comparison to what should be the strong national interest in efficient air transportation, have been allowed to serve as the ultimate barrier to aviation's growth in the Chicago area and access on the part of general and business aviation. On a national scale, they are devastating. When situations like this arise, the Federal government should step in to settle the matter.

Congress must, therefore, act to ensure the national needs of capacity and reduced congestion in the airspace and on the airport are not allowed to dwindle in the face of contradictory local concerns. While localities should have input to decisions affecting airport use and access, the Federal government should not allow those decisions to stand in the way of the nation's greater need for and interest in a flexible, capacious system of air transportation and commerce. For far too long, the Federal government has allowed these incompatible local concerns to outweigh this critical national need.

SUMMARY

Allow me to summarize the problems I have outlined:

Inadequate air traffic control services to outlying airports.

Underdeveloped reliever airports without adequate approach, communication or surveillance equipment.

Poor-to-nonexistent airport planning and construction.

Total lack of a coherent Federal policy toward or commitment to ensuring adequate airport capacity, local preemption of incompatible policies and continued growth of aviation.

The problems confronting the Chicago area are formidable. They derive from a combination of neglect and inadequate planning on the part of local officials and unwillingness on the part of the Federal government to expend the energy and funds required to address them but they are not peculiar to Chicago. Many other localities experience the same frustrations and inadequacies.

Congress has a unique opportunity to effect historical changes in the way the Federal government views aviation as it embarks on the process of reauthorizing the Airport and Airway Improvement Act of 1982. As you begin your deliberations, I hope you will consider the points I have brought to your attention and the solutions I have posed.

Thank you again for allowing me to appear before you today. I would be happy to answer any questions you may have.

Senator **Kassebaum**. Thank you very much, Mr. Henderson.

I think for the questions we will try and keep it as informal as possible. I would like to ask a few questions, but I hope all three of us will join in.

If any of you have additional thoughts to follow up any question, I hope you will feel free to address these as well to the witnesses.

I would like to start, Mr. Wiseman, with you, because you talked about noise level. Mr. Henderson mentioned noise levels and obviously it is a real factor, particularly, I think, with airports that have a strong community bordering the field, particularly those airports carrying out expansion efforts.

You mentioned that there should be a Federal access policy. If this were the case, under your proposed legislation, you would require airport operators to seek FAA approval of airport noise abatement procedures. How are you going to insure that the local operators and the local community concerns are taken into consideration? Obviously this has to be done.

Mr. **Wiseman**. Certainly—we are all for setting up a program that would eventually stage in quieter aircraft, which is really what the citizens around airports are concerned about.

The thing that we are concerned with is that this transition to quieter aircrafts be in a reasonable timeframe and be orderly and be uniform across the country.

The carrier has great difficulty in planning his fleets if each airport is allowed to make its own unique rules for its own area, and when that happens it moves a disproportional amount of noiser airplanes to the communities which do not enact tough noise volumes.

So we feel that some equality should be worked into the legislation that says that the FAA has to buy off on any noise rules which are legislated by local airports so that they are as equitable in all parts of the country as possible.

Senator **Kassebaum**. But can you really realistically make them equal in all parts of the country?

I can certainly appreciate your concern. For instance, did not Minneapolis just recently even close down stage 3 flights?

Mr. **Lazarus**. Not stage 3, Senator.

Senator **Kassebaum**. I thought even stage 3 operations were prohibited past a certain time.

Mr. **Lazarus**. In terms of curfew, yes. They have—by agreement that was done with the carriers.

Senator **Kassebaum**. But, again, I think what you are saying is that if one goes to the expense and meets the guidelines requested for meeting stage 3 requirements on noise level, then what assurance do you have that you will have access? In other words, will the rules of the game change midstream?

Mr. **Wiseman**. That is essentially what we are asking for, because if a carrier invests the moneys it takes to go to stage 3, it needs to be assured it is not wasted money. Airborne has done an extensive amount of research into retrofit of older stage 2 airplanes to stage 3 through the process of reengining, et cetera. We are looking at $307 million to reengine our fleet of aircraft that we currently operate in order to make them stage 3, but it's not going to make any sense to invest that kind of money into our aircraft if the local airports can still legislate us out of business.

Airborne operates, by the nature of our business, at essentially the critical time area which is middle of the night, so we are totally dependent on airport access for our existence, and not only us, but Emery, Federal, Purolator, and the rest of the express carriers; and all the regular freight carriers are primarily operated at nighttime, so we really need that access.

Before we invest—I repeat, before we invest that kind of money into our aircrafts to quieten them, which we agree needs to be done, we need to be assured that we are still going to have rights of access to these airports.

Senator **Kassebaum**. If there are no other questions at the moment on noise level—Mr. Lazarus?

Senator **Ford**. Let me ask a question about the noise level, if I may. Some things bother me a little bit about it. It's become very fashionable to be against the noise. It's kind of the fad, and that seems to be the heavy tool that you use against airport expansions, runways, whatever it might be.

You know, I slept very well last night, right next to the tower at the airport, and the planes didn't bother me at all. I was in the room by—oh, fairly early, and nothing bothered me this morning.

It seemed to be working well here. Mr. Henderson mentioned some kind of preemption of State law or local ordinances.

Anybody can answer it. Mr. Lazarus?

Mr. **Lazarus**. Senator Ford, if I may, the basic proposition is very simple, airplanes are noisy and we do generate noise; and with the increased schedules, there is more noise in totality than there has been before.

That doesn't tell the whole story, though. In some cases airports were built years ago out in areas which were pasture lands or uninhabited and so forth. As time went by commercial property developed and then residential areas developed, and so where there was nobody to be annoyed by the noise, then suddenly you had communities developing where people were annoyed by the noise.

There were poor zoning practices. There was no soundproofing for schools for various reasons, cost considerations. There are a number of factors that make up what is admittedly a serious problem.

We in the business are very, very concerned about the noise problem. I can just give you very briefly a piece of recent history at United.

What we did on October 1 of this year was to put in a new departure procedure, under which we take off and go up to 1,000 feet—under the same procedures we have used over the years, but then we throttle back using a different thrust setting, which is suited to the takeoff gross weight of the airplane and to the outside temperature. When we throttle back and pull the flaps up, we climb out more slowly to 3,000 feet. By using that procedure—and then reapplying climb thrust at 3,000 feet—by using that procedure we are able to reduce noise as much as 50 percent.

We are very conscious of the problem. This is one of the steps that can be taken to help ameliorate the problem.

But we certainly join with Mr. Wiseman in saying that it's very bad to be reduced to the lowest common denominator by fragmented State and local regulation, which then in turn gets to the question of airport access.

It's a dangerous situation when the carriers cannot get into airports and it's a very poor economic situation when the Federal Reserve System or the Postal Service and when cargo carriers cannot operate at all at night. That is very, very deleterious to the economic welfare of the community and to the system. We can have mail backed up at Chicago back all the way up to Cleveland by nighttime restrictions. It's a serious problem.

Senator **KASSEBAUM**. Mr. Murray.

Mr. **MURRAY**. It's obvious that the public has demands and that the airplanes supply in this country the finest air transportation system in the world, and there have to be some sacrifices to continue such a system, particularly at congested airports, where there are multitudes of flights taking off and departing—taking off and landing every day.

It's also important to note, as Senator Exon did, that the first, second, and third major concerns that we have are safety and some of the—all of the airlines are looking at powering back and in my opinion powering back too soon.

I mean maybe we shouldn't be concerned about noise, we should be more concerned about safety, we should keep full takeoff power until we attain a higher altitude. I'm not a pilot and I don't pretend to be an engineer. We do have a pilot here. Maybe he could comment on that. But it seems to me that our first concern is safety, the public's first concern is safety, the public's second concern is having the finest air transportation system in the world and certain sacrifices—I don't want to appear to be too callous about this—but certain sacrifices with respect to noise have simply got to be made.

Nobody compels these people to live close to the airport, and in most instances, as Mr. Lazarus pointed out, when those airports were built there were no homes surrounding those airports.

So while I recognize that noise and noise abatement is a major problem, safety and the preservation of the air transportation system in this country really come first and noise abatement should take a back seat to it.

Senator **KASSEBAUM**. Mr. Henderson.

Mr. **Henderson**. In many respects noise and zoning problems go hand in hand. Because there has been no national noise policy and no national zoning program, there have been fragmented—each local autonomous organization makes their own guidelines to go by; and when one community has a better program than another, the next community is going to want to start it.

If you give the general public a set of guidelines set by the Federal Government, they will accept those guidelines, as this is logical and reasonable. The present fragmented system allows for certain guidelines at Midway Airport and different guidelines at DuPage and a still different bunch at Aurora Airport, more at Waukegan, more at Gary, IN, different ones at O'Hare; and it's impossible to get all of the communities surrounding a—an airport on one course of action, because they have to take their own way without a national noise and zoning program. Thank you.

Senator **Ford**. Let me tell you what a problem we have on this side of the table. We are preempting States or local governments and that sort of thing, and to give you an example of how tough it is applying standards, every State has gone into setting appliance standards. So that means on all your appliance makers have to have 50 different refrigerators, stoves, dishwashers, whatever it might be.

Think about the Sears & Roebuck store at Bristol, TN, with Virginia having one standard, West Virginia having another, and Tennessee with another. That Sears & Roebuck store now has three separate washers, three separate refrigerators, to meet all the standards.

We tried to preempt the States for a national standard. We got into State's rights. Now this time we passed it and put it on the Presidents desk. He vetoed it because of the same thing.

So we understand a national standard and we paint in Washington with a broad brush. It doesn't always hit everybody the same way but we do have a national standard. What will happen, then, there will be some flexibility built into that and everybody's going to apply for the flexibility.

If you all have any suggestions—I'm not speaking for the panel now, I'm speaking for myself—as it relates to a uniform national standard, I would be delighted to have it.

We might be able to inject into this next piece of legislation something that would standardize the noise level. For instance, UPS is there and they have retrofitted every engine they have. They have to make the night takeoffs. We have done very well with them and they have done very well locally and it's beginning to improve. I don't know whether the folks near the airport have just given up on fussing about it or it's much quieter. It depends on which end of the runway and the wind's blowing, I guess; but it's tough.

Senator **Kassebaum**. Mr. Murray.

Mr. **Murray**. It's manifest that the national air transportation system has a direct impact on interstate commerce, and consequently under the commerce clause it would seem to me—I'm speaking now as an old constitutional lawyer before my days in the airline business—it would seem to me that Congress could, indeed, preempt the States pretty comfortably on this particular issue, unlike the refrigerators and the washing machines, which may not have the same kind of impact on interstate commerce.

Senator **Ford**. But it's the issue, it's not the content of the legislation, whether it's constitutionally correct or not. I'm not a lawyer, so you scare me to death. But you can preempt and we understand. That's not the problem, it's the issue of States rights.

Senator **Kassebaum**. Mr. Lazarus.

Mr. **Lazarus**. Senator, there is another piece to the puzzle; and that is we probably would have had occupancy of the field or, quote, loosely, preemption, a long time ago, but for the concern of the FAA over a liability arising from inverse condemnation suits—and I won't get into all the legal niceties, but there is a liability pricetag attached to that.

We believe it's manageable, but it exists; and it is one of the strongest blocks to so-called Federal preemption. That may be, by the way, another use for a trust fund, unappropriated, unused money.

Senator **Ford**. You mean buying insurance?

Mr. **Lazarus**. Yes, sir.

Senator **Kassebaum**. No, no, no.

Mr. Henderson.

Mr. **Henderson**. It has been my experience that the public generally will accept—I believe it's FAR part 36.3(c), which sets particular sound levels for takeoff and landing of airplanes, and they will generally accept that as being the gospel; and if they will accept FAR part 36.3(c) as being logical and reasonable, you would think that they would accept a Federal noise standard.

Senator **Kassebaum**. Mr. Wiseman.

Mr. **Wiseman**. In regards to accepting stage 3, I would just like to make a note that if, in fact, everyone did accept that as a standard, the airplane manufacturers, as of their own statements, could not gear up and manufacturer enough stage 3 aircraft to replace existing stage 2 clear up to the year of 2000. It's going to require efforts of the industry to take older aircraft and potentially reengine or retrofit to the state-of-the-art engines.

I might mention that Airborne has been doing a little bit of research in that area and will probably kick off a program in the next 6 months to potentially reengine our DC-9 fleet, but even that program is about 1991 for certification to even begin the retrofit.

So you are looking at time—even if stage 3 was enacted, you need a reasonable timeframe that's not going to legislate carriers out of business before they can transition to stage 3 in an economical fashion.

Senator **Kassebaum**. Senator Exon, do you want to start us off on a different track here in regard to some other issues?

Senator **Exon**. Yes, Madam Chairman, let me direct my first question to Mr. Murray.

Mr. Murray, I was just beginning to like you and then you announced, like most attorneys do, that you are an attorney. You are looking at three members of the U.S. Senate, probably the only three that are not lawyers; and you should have saved that to a more appropriate panel.

Seriously, let me ask you this question. You were talking about accessibility and the noise problem. I happen to live in Washington, DC. My house cannot be more than just a few blocks off of the Potomac and I have noise problems. I think you generally learn to live with the noise problem, as there are few places where you don't hear it.

I think probably there is an interrelationship that you all discussed about of the clamor we hear about noise and safety. I think some people are not so disturbed with the noise in that engine as they are the fact that they hope they keep hearing that engine thrust going forward, and I think there is an interplay from that that we should look at.

Specifically to your question, Mr. Murray, that you do not see the problem of solving the slot issue the way the Secretary of Transportation sees it, that being by allowing the major carriers to have those slots to use and sell them to whomever they choose. If you do not endorse that, could you give us some suggestions as to how we are going to solve that problem?

Because when it comes down to it, other than pricing for peak and nonpeak hours, the availability of slots are going to continue to be a serious problem.

Mr. MURRAY. I'm glad you asked the question, Senator, because it's a subject that I have a keen interest in.

Simmons Airlines as a regional carrier has probably been the most active regional carrier engaged in the buying and selling of slots since the FAA authorized Buy/Sell, I think, back in April.

My first comment is that a year or so ago, when the FAA in its infinite wisdom decided that there was a distinction between air carrier slots at the restricted airports—that is to say, slots that could be utilized by aircraft of 56 seats or greater, as compared to commuter slots, which could be utilized only by aircraft of 56—55 seats or less—Simmons Airlines became a new entrant air carriers at O'Hare and we went out and obtained a fleet of 6 aging Nihon YS-11's, which are—they look like stretched Convair 580's. They are manufactured in Japan by a consortium of manufacturers in Japan. It was the only propeller-driven aircraft, turboprop aircraft, that we could obtain that would qualify us to be an air carrier from the standpoint of utilizing the slots.

My first concept is that the distinction between air-carrier and commuter slots should be done away with, principally because it bears absolutely no reasonable relationship to safety, which is what the FAA is primarily charged with; and, consequently, it is my opinion that the FAA overstepped its bounds in drawing this particular distinction.

I am a major proponent of keeping Buy/Sell alive and well in its present form, and I am aware that one bill has passed the Senate in the last—in the 99th Congress and that the House has debated the issue and it is still in committee; but there appears to be—based only upon the very strong response to the bill in the Senate, there seems to be the trend toward either abolishing Buy/Sell or restricting it or taxing it or doing something with it.

Now, that in and of itself, the abolition of Buy/Sell is another restriction upon airport access. It seems to me that airport access is, in fact, enhanced if a company can go out and purchase additional slots. We did so. We, in fact, have purchased 54 commuter slots and we have sold 26 air carrier slots.

We have paid for the privilege of using these slots. We have enormous investments in aircraft. We have sustained tremendous startup losses in connection with the utilization of those aircraft. We have a vested interest in the airports that are restricted and in gaining additional access to those airports.

I think Congress is making a serious mistake considering the abolition of Buy/Sell or the taxing of Buy/Sell.

Why are we going to tax Buy/Sell when we have all of this money sitting around for the airports not being used?

How is it going to help to take 20 percent of the purchase price of a slot and dump it back into the Government's coffers when the money that is sitting there today is not being used?

I don't want to speak for anyone else, but I suspect that most of the major carriers and most of the well-financed regionals are in favor of Buy/Sell in order to gain airport access to restricted airports; and, frankly speaking, those people who cannot afford to participate in Buy/Sell really cannot afford to participate in the national air transportation system, and, frankly speaking, it would not bother me at all to see them go away.

Senator **Kassebaum**. Mr. Murray, could I follow that through for just 1 minute.

Senator **Exon**. I have some followup questions, but go ahead.

Senator **Kassebaum**. You mentioned access problems specifically at Detroit and Milwaukee. These airports are not subject to the high-density rule, are they?

Mr. **Murray**. Detroit was at one time but it is no longer.

Senator **Kassebaum**. Is the problem there simply lack of room or is it lack of gates? What is the constraint to access or to expansion since it's not a high-density airport?

Mr. **Murray**. The major problem, of course, at Detroit is the tremendous growth of Republic and the subsequent acquisition of Republic by Northwest, and they really dominate that airport today, which is fine for us, because we are affiliated with Northwest at Detroit and fly under the Northwest air link better there, and yet we cannot—we have 84—84 turns a day at Detroit today. We have operations with nine aircraft on the ground simultaneously.

Should our relationship with Northwest terminate tomorrow—we are today a sublessee of Northwest's. Should our relationship terminate tomorrow, we would be out of business at Detroit, because there is no space available. Detroit cannot afford us any ramp space or any gate space whatsoever to do business at Detroit. We are totally at the mercy of Northwest.

If Northwest decides that our contract should terminate for one reason or another, we are out of business. The same thing is true at O'Hare, where we have 55 turns a day.

What I am saying to you, really, is that slots are only one aspect of the access problem; and, of course, they only relate to the certain airports that are slot restricted, but they are an important part of that access problem and an integral part of it.

At O'Hare, where we have 55 turns a day, we are 100 percent at the mercy of our business partner at O'Hare, American Airlines. If we left—if we left American, if we terminated our relationship with American, we would have no place to park an airplane, no place to board a passenger at O'Hare. We simply could not get any space sufficient to service six or seven—or to utilize six or seven aircraft on the ground at the same time.

We, in fact, developed a business relationship, became an American Eagle carrier at O'Hare almost in a sense against our will. I say that very loosely because United led off at O'Hare by making our primary competitor Air Wisconsin, a United affiliate, now flying as United Express.

Before we had any relationship with American, we had asked United for space at O'Hare. We had asked to join them, because they are the biggest carrier at O'Hare, the greatest potential profit for a regional; but they were more interested in Air Wisconsin, a larger carrier than we were. We were thrown into the lap of American, and if we ever were ejected by American, we would have no space at O'Hare.

Simmons Airlines would conceivably—a publicly held company, with 800-some-odd shareholders and a net worth of $35 million, the company would essentially be out of business if our relationship with either American Airlines at Chicago or Northwest at Detroit were terminated tomorrow.

Senator EXON. If I might follow up, I take it, then, that my original assumption was wrong, Mr. Murray.

You like the Secretary of Transportation's present policy with regard to the buying and selling of airport slots?

Mr. MURRAY. Yes, indeed.

Senator EXON. It may be because of the circumstances you are in.

Let me ask this question then. I listened very carefully to what you just said.

Supposing you had a situation—I don't see how that could come to pass in O'Hare because of the fierce competition here. I come from a section of the country that deregulation has been devastating to our smaller cities, good for Omaha, which is now a major terminal but—and we don't basically have slot problems out there.

I guess what I am worried about is that these airports aren't owned by your airlines or anyone else, they are owned by the people at large; and it seems to me that we could get ourselves into a position where through the free enterprise system, a carrier, if they have enough money, could one way or another buy all of the slots at O'Hare.

If that came to pass, to use an example, would that not give that carrier, whoever it would be, almost monopoly control over a major airport such as O'Hare?

Mr. MURRAY. Don't we, in fact, have that today?

The combination of United and American at O'Hare probably represents close to 70 percent of the air traffic at O'Hare today. United has probably been the most significant slot buyer of any—many major carriers at O'Hare.

Senator EXON. I have a high regard for United Airlines, but I—I would not be in favor of them enhancing their control any more, to use your example, than they have now. And I guess I would have to ask what percentage of the additional $1.5 billion that it will cost to expand O'Hare Airport, is going to be paid by United?

Mr. LAZARUS. May I——

Senator EXON. I thought you might want to get into that.

Could you tell me, Mr. Lazarus?

Mr. LAZARUS. Yes. The new terminal itself is going to cost more than $350 million when we are through adding new terminal facilities at O'Hare; and, by the way, just so the record is straight, airport common use facilities, when we pay for them, we are the ones who support the bonds to pay for airports.

I am not claiming that that gives us an exclusive right to monopolize an airport, by no means; but I must object at least to the implication of Mr. Murray's statement.

Senator EXON. He is a lawyer. I can understand.

Mr. LAZARUS. Well, I used to be, too; but one of the important things that I think we ought to keep in mind is that the slots that we have bought at O'Hare are primarily used for small community services.

If you think it through, I think you will wind up agreeing that that is a logical conclusion, because the basic—the basic schedule that you put in at a major hub airport is the schedule that connects you with the communities that provide the greatest amounts of traffic. So the additional slots that we buy are going to serve the smaller communities.

I think this is a desirable public benefit and this is an instance in which the marketplace does work. I won't burden the record anymore, just to say we associate ourselves with Buy/Sell.

I would appreciate it if I could let Captain Cotton speak about 1 minute about our departure procedure and safety, because I think the record should reflect that it is——

Senator EXON. Before Captain—I don't have any objection, I would like to hear from him. Do you think that if we are going to buy and sell slots, then, Mr. Lazarus, that maybe it would be a good idea to carry that on into the buying and selling of gates?

Mr. LAZARUS. We do buy and sell gates.

Senator EXON. You buy and sell gates also?

Mr. LAZARUS. Please, Senator, recall that the original high-density rule in 1969 was created not because of safety, but because of runway and taxiway capacity restraints.

The real answer to Buy/Sell and the real answer to the whole situation is to remove the high-density rule. There is a natural constraint at airports, and that's called gates. You can only turn an airplane so many hours a day so many times, and there really is no need at O'Hare or other airports for the high-density rule.

I you look in the record you will see FAA was prepared to remove it at the time right before the PATCO strike and then the PATCO strike came along and they said, "Whoa, let's not do anything about it."

The real answer is not Buy/Sell, the real answer is removing the high-density rule; and that's what we ultimately hope will happen.

May I ask Captain Cotton to talk just very briefly about this safety situation?

Mr. COTTON. Yes. There was a question raised about the safety of the procedure that we are using on our stage 2 airplanes on takeoff, and I'd like to say that this procedure was designed by pilots and has been implemented by pilots; and the pilots on our airline and I'm sure on the others, as well, are concerned about safety, not only when we read about an incident in the papers, it's really a way of life, it literally is a way of life. It's our only concern when we are taking off.

This procedure involves us climbing to a safe altitude before there is any reduction in power, and the reduction in power that takes place at that point is calculated in advance to be 5,000 feet per minute rate of climb.

The only result—there are actually two results of our doing this. One is that we make a lot less noise on the ground between about 2 miles from the beginning to takeoff to about 7 miles and we get to where we are going a little bit later, but it does make a lot less noise.

Senator EXON. One last question, Madam Chairman. I was going to ask this of Captain Cotton.

Give me as briefly as you can you and your association's view of the success or failure to date of the FAA's development of airborne collision avoidance systems. What is your recommendation, if any, as to what should be done next on the ACAS, the TCAS, and all these other systems we are talking about?

Mr. COTTON. There is only one game left in town and that is TCAS, and we are very much involved in the development of that system. We have great hopes for its promise in reducing the risk of midair collision.

We are under contract from the FAA through Bendix to evaluate a TCAS-2 system in service beginning next May. We have recently overcome a hurdle that involved the certification of that equipment and we are now proceeding on schedule with that evaluation.

We would like to see the TCAS-3 equipment, which adds the one feature of the ability to maneuver horizontally, as well.

We would like to see that development continue and an evaluation of that equipment take place so that when we make the purchase decision, we will have everything set out on the table, we will know what the capabilities of each is, the limitation and the price and we can make an intelligent choice.

Senator EXON. If we go into—when would you feel as a pilot, who has obviously studied this—when do you believe we could have the first and most fundamental of TCAS in operation?

Mr. COTTON. We could have that in 1988.

Senator EXON. In 1988?

Mr. COTTON. That's right.

Senator KASSEBAUM. Captain Cotton, if TCAS had been in operation now, would the near miss over Tennessee this morning have been avoided?

Mr. COTTON. Yes, there is no question about that. Both of the aircraft involved in that situation were equipped with mode C—that's altitude reporting transponders—and that's the only requirement to make the system work.

Senator KASSEBAUM. Thank you.

I'd like to ask one more question concerning comments you had, Mr. Lazarus, about the national airport authority and the Federal corporation.

Mr. LAZARUS. Yes, ma'am.

Senator KASSEBAUM. I know this is something that ATA strongly supports in the belief that it will enhance the efficiency of the system.

I would just like to ask you, though, while it may mean greater efficiency in the system, how do you assure that it also guarantees safety?

Because there is a certain, it seems to me, tension that by the very nature of the operation exists between efficiency and safety and I think we all share Senator Exon's concerns, and I know the flying public does, about safety.

So how do you guarantee safety? Even though FAA may not be noted for operational efficiency, it's first mandate is safety.

Mr. LAZARUS. And so would the mandate of the—what we call the Federal Aviation or Airspace Authority.

Safety is obviously the No. 1 priority of all of us. There are several answers to the question.

First, the basic jurisdiction over safety would remain with the FAA. We are not taking a safety function away. We are taking management of an air traffic control system and putting that in the hands of a body, a professional body.

Second, there will be two overseeing boards, one composed largely of people from Congress, plus a technical professional, advisory board, who would oversee the structure and the basic operation of the system. Those things are terribly important to insure that the system does operate safely.

The third thing is—what we are really talking about is taking an existing very professional machanism—and the air traffic control system is manned by professional people—we are talking about taking that structure and really getting it out from under the budget process, this is what we are really aiming at doing, and also improving some of the moral problems.

So we are not tinkering with the essential structure of the organization or the safety-related function. What we are saying is let's get the air traffic control system out from under the budget and appropriation process, which has been hamstrung for so many years and, second, let's get a professional-type management in that can deal effectively with the moral problems, salary problems, and so on that have affected the air traffic control system.

Senator KASSEBAUM. If we would move the aviation trust funds off budget, then you would have no quarrel?

Mr. LAZARUS. That would go a long way, Senator—excuse the interruption but I think I know where you are going. That would go a long way toward solving the problem.

Senator KASSEBAUM. Let me just ask if you could analyze something that I don't know that much about, but it seems to me to be a good illustration of what could happen if we moved to a separate corporation.

Just recently, because of the near misses at O'Hare, the runway incursion, NTSB made several representations that they believed would be important to prevent this from happening. Two of them were put into place. One of them limited use of intersecting runway operations; and, two, they prohibited procedures of clearing two planes into a position for hold on intersecting runways at the same time.

It's my understanding that these were put into place for about 2 days and then flights were being so delayed that, of course, the airlines very much resented these procedures and they have been discontinued.

Mr. **Lazarus**. The procedures—and Bill Cotton can talk more professionally than I can—were unnecessary and that's why they were discontinued, not because they had an adverse effect.

Senator **Kassebaum**. Is it not correct that that they were addressing a near miss had happened because of disinterior problems?

Mr. **Lazarus**. A near miss did occur, but it was not because the rules were not adequate, it was an error of—it was a human error, if you will; and those things do occur.

But let me get to your basic issue, which is what happens if you have a separate Federal authority or corporation and the NTSB makes a recommendation.

The answer is exactly what happens today, and that is that the FAA retains rulemaking authority. To get back to what I said before, all we are urging is take the operational piece out and put that in the Federal authority. You are not taking out safety rulemaking or safety oversight, that remains with FAA. So you wouldn't have any difference of an NTSB recommendation going to FAA and FAA implementing it.

Senator **Exon**. Madam Chairman, if I might jump in here, I have a comment on these two questions that the industry is talking about; and there seems to be general support for that, not total, but general.

Off budget items: That is in my creative bookkeeping. I don't know that that's going to solve any problem, but I guess you are basically saying that if we could take it off budget, then you could spend the money.

I think the money has to be spent and should be spent. But if we had the right people in the right positions today, we wouldn't need to move it off budget; however, I want to listen and be working with you in the future on that.

Mr. **Lazarus**. We are terribly frustrated, Senator. We have——

Senator **Exon**. So are we. We have been through that also.

I am not sure just moving it off budget or creating a separate agency is going to solve some of the problems that you think would be solved by it. If you have a football team that doesn't have a single good running back, changing the quarterback isn't necessarily going to make that a successful football team.

Senator **Ford**. Would you bring up basketball instead of football?

Senator **Exon**. As I say, we don't go in for those minor sports right now.

Senator **Ford**. We make as much money as you do.

Senator **Exon**. But let me say this, without belaboring the point anymore, these are things that should be considered, in my opinion.

I guess I just want to say, "Wait a minute, whoa, now." Moving things out from under the Secretary of Transportation, who is supposed to report to the President of the United States, by and large have not always solved the problems that we think we had.

I will allow the Postal Service. There are some questions today as to whether we should have ever gone to that kind of a system. In one sense or another it seems to me that the airline industry is simply saying, "Give us a chance to do this with a new system." I think it's somewhat like the postal system, and, therefore, I have some misgivings about it. But, again, that's why we are here for this hearing, to get your ideas, and we will be working with you in the future on this subject.

Mr. **Lazarus**. We are not asking you to make up your minds today. We have no panacea here except on the question of cigarettes, cigars, and pipes.

Senator **Exon**. That's been resolved.

Mr. **Lazarus**. That was resolved; but with respect to the air traffic control system, all we are saying is please keep an open mind. Give us an opportunity.

There are answers we are searching for, and we want to work with you to find answers, because the delays we had certainly last summer and projected for next summer are intolerable for consumers and users of the system, and that's what concerns us. We exist for one reason, and that's for passengers and for shippers.

Senator **Ford**. I have just a couple questions, Madam Chairman.

Mr. Wiseman, how much does your company pay into the trust fund?

Mr. **Wiseman**. Senator, I do not know.

Senator **Ford**. Do you have a ballpark?

Mr. **Wiseman**. No, sir; I don't.

[The following information was subsequently received for the record:]

It was requested by the committee that Airborne Express submit the amount paid by Airborne into the trust fund. That amount for 1985 was $3,274,876.

Senator **Ford**. That didn't help me much.

How much of that money came back to the airports that you know of or that you serve?

Mr. **Wiseman**. I don't have that number, either; but I will say that Airborne's main hub airport is owned by Airborne and we get not 1 cent of Federal moneys for that.

We have our own category 2 landing system, the only privately owned and maintained category 2 in the United States. We receive no Government funds whatsoever for its support operation.

Senator **Ford**. Mr. Lazarus, you talked about some $300 million into the trust fund from your company over a 5-year period, 1979 through 1984?

Mr. **Lazarus**. That was an O'Hare figure, yes, O'Hare, and $37 million.

Senator **Ford**. Roughly 10 percent.

Mr. **Lazarus**. A little less than 10 percent.

Senator **Ford**. Roughly 10 percent coming back, what would have been a reasonable return?

Mr. **Lazarus**. I can provide that for the record.[1] I really don't have that, sir.

Senator **Ford**. I'm talking about a reasonable return, because you know that some of that money goes into other smaller airports where it is needed to fullfill or to help supplement their program. I just wondered if you, Mr. Wiseman, would advise the committee on the amount of money you paid into the trust fund. Mr. Lazarus, if you would give me some kind of a judgment as it relates to what you feel would be a reasonable return.

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[1] The information was retained in the Committee files.

That's all I have, Madam Chairman. Thank you.

Senator **Kassebaum**. All right, we certainly very much appreciate the testimony of the first panel, including the questions that the panelists' testimony has raised, and thank you very much.

Senator **Exon**. Madam Chairman, might I just say for the record, I think one or two of the panelists asked that their full statement be incorporated in the hearing record.

I would like to move that we accept all of the written statements by these witnesses and others who will be testifying for us today under the four panels outlined in our schedule.

Senator **Kassebaum**. Without objection, that will certainly be done.

Mr. **Lazarus**. Thank you for coming to Chicago.

Mr. **Wiseman**. Thank you very much.

Senator **Kassebaum**. Thank you.

If the witnesses for panel 2 would please take their places.

Mr. Butler.

Is Mr. Mitchell here?

Mr. **Mitchell**. Yes ma'am.

Senator **Kassebaum**. It's a pleasure to welcome the second panel. On our left, Hon. Martin Butler, mayor, city of Park Ridge; Mr. Robert Coverdale, director of aeronautics, Illinois Department of Transportation; and Mr. Samuel Mitchell, president of Chicago Association of Commerce & Industry. It's a pleasure to welcome all three of you.

Mayor Butler, would you like to begin, please?

STATEMENTS OF MARTIN BUTLER, MAYOR, CITY OF PARK RIDGE; ROBERT F. COVERDALE, DIRECTOR, AERONAUTICS, ILLINOIS DEPARTMENT OF TRANSPORTATION; AND SAMUEL R. MITCHELL, PRESIDENT, CHICAGO ASSOCIATION OF COMMERCE & INDUSTRY

Mr. **Butler**. Thank you very much. I appreciate this opportunity. As stated, I'm mayor of the city of Park Ridge. Park Ridge is a 110-year-old community of 39,000 people living in an area we believe is slowly being devastated by the literally unrestricted noise and air pollution created by the airlines using O'Hare.

I'm also chairman of the Suburban O'Hare Commission. This commission is composed of 14 communities with 400,000 victims—I underline that—victims of the airlines and the FAA and in some respect congressional attitudes.

There are 99,000 homes being pounded day after day. I always have to add, because Mr. Lazarus of the United Airlines in particular, but most airlines in general, claimed that that was a vast pastureland out there, which is simply not true.

There were 219,000 people living in 60,000 homes the day the first jet plane flew. Our average community among these 14 is 100 years old. Again, I mention this, because that is the charge that is always thrown up and it simply is not true. Let me put this in some human terms, if I might.

Let's take, for example, the community of Bensenville, which is right on the southern edge of the airport; and perhaps Senator Ford might have stayed there and felt what those people feel, because those 16,000 people—and that community, incidentally, is 100 years old, more than 100 years old—in 1982 experienced over 82,000 low flights. In 1986, this year, it's estimated there will be 120,000 low flights; and by 1995 that number is going to be somewhere between 135,000 and 140,000.

One other gentleman in the previous panel said there have to be sacrifices. Every one of those low flights is a human sacrifice and nobody benefits out of that except the airlines.

I have to ask myself constantly really what kind of a society are we that permit that kind of devastation to be impacted on humans and on families.

As has been stated, the city of Chicago is now engaged in a $1½ billion expansion program financed as a result of this—in part and as a result of this act. That expansion is being conducted without any input whatsoever from the local communities, despite a requirement in the act that local communities at least—at least—be consulted about what effect it would have in human values and in economic values and in the value of their own homes when that project is completed. So we have to think about these things in human terms.

Second, I'd like to point out a deficiency in the act is its allocation of funds for noise mitigation. That mix was obviously shaped by the airlines for their own benefit. Of all the billions of dollars that have been discussed today, just 8 percent—8 percent—is allocated for noise mitigation measures. That, ladies and gentlemen, is peanuts.

There are nearly 100 schools in this area impacted by aircraft noise beyond the point where teachers can conduct classes in a reasonable manner. Only 3 of those 100 schools have been soundproofed, and that to me is a national shame.

Of the $4½ half billion, just throwing some numbers, $360 million apparently is available for noise mitigation. This area alone could use $50 to $75 million just to soundproof its schools to some measure of minimal standards for reasonable teaching abilities.

To add insult to injury, in order to get your hands—or for school districts to get their hands on this money, they must conduct what is called a noise compatibility study, a part 150, under which is a part of the Aviation Safety and Noise Abatement Act, which is financed by the act under their consideration today.

That act in itself is devastating to the communities because of the part 150. The dollars that are allocated for schools can only be received after a part 150 study has been made. In every case in this Nation where a part 150 study has been conducted, the goal has been not to reduce noise levels in the area of the airport, but the end result has always been to get rid of the homes. There has always been a reduction in property values, and in many, if not most cases, it has meant virtually the destruction of established residential communities.

Is that light for me?

Senator **Ford**. Yes.

Mr. **Butler**. I'm sorry I have to bring a contrary view, Senator.

Senator FORD. I like it. That's what makes it good. Drive on.

Mr. BUTLER. Pardon?

Senator FORD. Drive right on.

Senator KASSEBAUM. No. We have a little longer, I think, for you, Mayor Butler.

Senator EXON. The chairman says we have a little bit more time for you.

Mr. BUTLER. Oh, OK.

Senator KASSEBAUM. No. Go ahead. We have a little longer. I think they set the timer at the wrong time.

Mr. BUTLER. All right. I appreciate it.

Senator KASSEBAUM. Everybody else is 5 minutes, you are 10.

Mr. BUTLER. If you add up everyone else they have had a half hour.

The problem we were discussing was a part 150 study and that is really an effort—a thinly disguised effort to be certain that the homes in the area are removed and not any effort being required on the part of the airlines or the airport operator to reduce the noise and I would—all of us would appreciate it if you would look very, very carefully at that.

Another example that was under discussion today, and that was the airport access and capacity policy, which has been, as I say, discussed. I won't go into that, except that in our view with these national standards there is an effort to—by the airlines to avoid any legal responsibility for the damages they cause.

As I understand the policy as the FAA wrote it, the airlines have asked that they—that there be a national policy, except that the local airport operator bear the legal responsibility for any problems created by the noise or air pollution; and I think that's a rather clever handoff, so to speak, and something that should be very carefully considered.

Another example is the fact that—and I will say this very briefly—believe it or not, there has never been a study of air pollution created by aircraft commissions. There has been some superficial passes made at it. Right now there is no standard for air pollution. Apparently no one cares, because the EPA has never attacked this problem; and those of us living in the vicinity of airports—and, incidentally, I live in a 65-year-old home—those of us living in the vicinity of an airport are accustomed to seeing oily scum on our buildings, on umbrellas, just on every surface; and somebody should be looking at that, because if there is not a risk, let's lay that whole thing to rest.

In my statement, in my written statement, I have asked—or suggested, rather—that certain things be considered in the act.

I think that the Secretary should be prohibited from approving the expansion of any airport, and I mean anything that would lead to an increase in flight operations without the approval of the communities or at least the consultation with the communities surrounding the airport.

Two, the Secretary should be prohibited from approving any grant application unless the social and economic losses to the surrounding communities were included in the cost benefit analysis.

Right now in that whole O'Hare expansion proposal there was not one iota of information given on what the cost or what the benefit might be to the local neighbors.

Also, we believe the Secretary should be prohibited from approving any grant application unless there is a true certification about the air and water quality standards which may or may not be impacted.

Also, we believe that there should be a change in the allocation of aircraft—of the dollars available to mitigate aircraft noise. These programs really should be designed to at least preserve the quality of life and not—not destroy it through such things as the part 150 study.

Also, there are parts of the act which, believe it or not, limit the legal rights of private property owners in terms of recovering damages from the airlines, should that be proven in court or even brought to court.

Also, we should study the health risk, which is not done now. I spoke about the aircraft access and capacity. We should understand that there is an element in there that permits the airlines to avoid legal responsibility, and, finally, I think the—all of the talk about quieter engines should be enforced and the FAA should be forbidden to extend the timeframe in which retrofits or new planes should be brought onstream.

In summary, we sincerely feel that there ought to be some Federal statute which requires that the rights of the citizens be protected living in the vicinity of airports in homes that were there a long time before United Airlines ever flew the first jet and that we ought to have an agency—which the FAA is not fulfilling now—we ought to have an agency which represents some of the interest of the people living in the vicinity of airports and not just the airline industry. Thank you.

[The statement follows:]

STATEMENT OF MARTIN J. BUTLER, MAYOR OF PARK RIDGE, IL, CHAIRMAN, SUBURBAN O'HARE COMMISSION

My name is Martin J. Butler. I am the Mayor of the City of Park Ridge, Illinois, a 110 year old community of 39,000 people living in an area slowly being devastated by the unrestricted noise and air pollution created by the airlines using O'Hare Field.

I am also chairman of the Suburban O'Hare Commission. This is an organization of 14 communities whose 310,000 residents are victimized by the policies of the Federal Aviation Administration.

We estimate there are at least 400,000 victims of the airlines and the FAA within the 65 Ldn noise contour surrounding O'Hare Field.

May I add parenthetically there were 219,000 living in these 14 communities *before* the first jet plane roared into the air. The average community is over 100 years old. I mention this because the airlines and the FAA are quick to charge that our communities were created because of the jet plane, not despite them.

May I also add that Congress has known of this problem for years. Congress also knows, or should know, the problem is growing worse. It has the power to order relief. It has the responsibility to order change which would help the 6,000,000 people suffering nationwide because of the FAA's refusal to do anything to help them.

The FAA deliberately, willfully, and wantonly uses its immense powers to fight any changes which might bring about some relief for the victims of airlines' jet noise and air pollution.

Its policies and practices are carefully structured to shield the airlines' ability to brutalize people without constraint and with as little legal exposure as possible. I will discuss this in a moment.

First, may I personalize the problem. In 1982, O'Hare had 591,000 operations, that is, flights in and out. The projection for 1986 is about 840,000 flights, increasing to 920,000 by 1995.

The 16,000 people of one suburb, Bensenville (which, incidentally, is over 100 years old), were bombarded by 82,000 low flying jets in 1982. In 1986, they were impacted 120,000 times. By 1995, 138,000 separate impacts will crunch down on them.

What kind of a society are we? Are we so enamored by the conveniences of air transportation that we—all of us—can deliberately sentence tens of thousands of people to misery each time an airline profits from a flight over our homes?

Congress now has an opportunity to say "Stop! This has gone far enough."

Today I will discuss several areas in which Congress can and must take action to protect the citizens who live near the Nation's airports. Ther must be changes in the *Airport and Airway Improvement Act of 1982* (AAIA) and the *Aviation Safety and Noise Abatement Act of 1979* (ASNA) which is funded by the AAIA. The United States Environmental Protection Agency must study the health risks from aircraft air pollutants and set standards to protect the health of citizens living near airports. Finally, the FAA must strictly enforce its regulations requiring quieter jet engines and enact more stringent requirements.

THE FAA'S "FAST SHUFFLE" AND THE NEED FOR CONGRESSIONAL ACTION

I am here to complain about the proposed "fast shuffle" being dealt by the FAA to the hundreds of thousands of injured residents living around O'Hare Airport—and to similarly injured residents living around O'Hare Airport—and to similarly injured residents in near other major airports. Under its current and proposed policies toward airport management and expansion, the FAA is literally proposing to rob "Peter" (the injured property owners and citizens around O'Hare) to pay "Paul" (the airlines and airport proprietors). In doing so, the FAA will condone and promote the transfer of literally billions of dollars in economic wealth from the victims of airport noise and air pollution to the airlines and airport owners. It is incredible to me as a government official that we should be rewarding the perpetrators of pain and injury by forcing the victims to pay the price of that injury and at the same time letting the perpetrators avoid the costs.

Let's get down to brass tacks. There are really only two ways to address the noise and air pollution from increased air traffic:

(1) Reduce the emissions of noise and air pollutants from the source; or

(2) Keep the noise and air pollutants away from the potential victims.

Unfortunately, the FAA has refused to take sufficient steps to reduce noise and air pollution from the source and has wiped out any temporary gains through increases in the volume of traffic. Further, FAA is promoting policies which will encourage a massive uncompensated exodus of victims from stable residential areas around airports—creating blighted economic ghettos from fine residential communities.

Reducing emissions at the source.—The FAA has clearly failed to take aggressive action to reduce emissions of noise and air pollutants from the source. Any benefits of engine noise emission reductions have been and will be drowned out by increases in the number of aircraft operations at O'Hare—making an already intolerable situation even worse. As to air pollution—particularly as to the potentially carcinogenic effects of aircraft engine emissions (many of our residents live in a kerosene fog)—the FAA (and EPA) have taken a "hear no evil, see no evil" approach. Nothing has been done to assess the toxic health risk posed by the kerosene and burned jet fuel fog that are literally sprayed on residential communities around O'Hare.

Absent more stringent controls on engine emissions of noise and toxic pollutants, the only other way to reduce the noise and air pollution from the source is to place limits on the number of operations at any given location.[1] The idea of limits on the number of operations—whether in the from of limits on total operations or in the from of a night curfew—is a familiar concept. Unfortunately, with the noted and glaring exception of Washington National—where FAA has responded to massive pressure from Congressmen who live nearby—the FAA continues to take a hostile attitude toward restrictions on operations at major hub airports for purposes of reducing noise emissions or air pollution. The glaring irony between FAA's solicitude for the sleeping habits of Congressmen living in metropolitan Washington and FAA's disdain for the sleepless nights of citizens around O'Hare is rendered doubly ironic by FAA's willingness to restrict operations at major hub airports for the economic benefit of the air travel industry. Ignoring the admitted loss of residential property value caused by noise [2] around O'Hare—which was the economic justification for the nighttime limits at Washington National—the FAA has imposed numerical limits on flight operations where it benefits the air travel industry (e.g. the slot rule) but has refused to impose such restrictions to reduce the economic and human injury caused by noise and air pollution. Further, it has discouraged individual proprietors from imposing such measures. FAA's Proposed Policy on Airport Access and Capacity (January 22, 1986) is designed to discourage further progress by airport proprietors toward reducing noise and air pollutant emissions.

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[1] This concept of restricting the total number of operations in lieu of more stringent emission limits on individual operations is a technique well recognized in other pollution control programs in industry; the concept is not unique to airports.

Keeping noise and air pollution away from the victims.—If the federal government, the airlines and the airport proprietors fail to reduce noise and air pollution at the source—and continue to discourage limits on the number of aircraft operations—the only other basic alternative is to keep the noise and air pollution away from the victims. For many reasons, moving the victims away from the pollution is not a viable alternative in many metropolitan communities.

There are several ways to accomplish this objective—moving the victim away from noise and air pollution—all of which cost money and most of which create more problems than they solve:

1. Non-residential land buffers.—The best way to keep victims away is by land buffers. Properly designed modern airports have large land buffers dedicated to non-residential uses. Unfortunately many existing airports have no such buffers and have grown haphazardly without regard to the purchase of buffers. At O'Hare the land "buffer" is comprised of the homes of 400,000 citizens.

2. Moving out the victims by buy out.—If the non-residential land buffer doesn't exist, the airport can buy the buffer by moving out the existing residents. In reality, based on FAA's and HUD's own characterization of noise acceptability, 400,000 residents in long-established communities around O'Hare should not live there. Not only would a buy-out be very expensive, it would destroy the social and political fabric of the community.

3. Buying the right to inflict pain by easement.—Aviation easements do not solve the problem. The victims remain in place and the limited money paid does not compensate for continuing and increasing suffering.

4. Moving the victims out by redlining the impact community.—As unsatisfactory as full or partial buy-outs are, such programs at least require the persons inflicting the injury to compensate the victims. But it is totally reprehensible to empty the impacted area through redlining and discouraging people from moving into existing residential neighborhoods. Yet that is exactly what the FAA's Part 150 program does. Instead of the airport proprietor and the airlines bearing the cost of buffer acquisition—either through fee simple acquisition or easement—the 150 program forces existing and future homeowners to pay the cost of the de facto easement. Further, the mapping and notice process discourage movement into the redlined area. I ask you: What are the existing 400,000 residents of the noise impacted area to do—give all or a part of the value of their property free to the owner of O'Hare? That is exactly what the Part 150 program does. Further, what is the long term social and economic impact of affirmatively discouraging free movement into once stable suburban residential communities? Aren't we running the risk of creating blighted economic ghettos?

WHAT WE NEED

We need Congress to recognize that moving people out of impacted areas by Part 150 redlining is a destructive solution which robs the victim to profit the perpetrator of the injury. Instead of moving the victim without compensation, Congress must direct FAA and airport proprietors to aggressively reduce noise and air emissions from the source—including limiting the number of operations at heavily congested airports where noise has its most severe impact. Such reductions could be accompanied by construction of new airport facilities with adequate raw land non-residential buffers.

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[2] FAA has acknowledged that aircraft noise has a significant deterimental impact on property values causing a 1-3% drop in value per decibel in areas over 65 decibels. For a home in the 75 Ldn and above range this loss can total tens of thousands of dollars. Moreover, this loss doesn't account for the significant economic losses resulting from loss of sleep, tension, inability to study etc., in the impacted population.

THE ISSUES BEFORE THE SUBCOMMITTEE

I have been asked by the Subcommittee to address, from the standpoint of the citizens who live around the nation's airports and the municipal governments which represent them, the following interrelated issues:

1. The effect of reauthorization of the *Airport and Airway Improvement Act of 1982,* 49 U.S.C. Sections 2201, *et seq.*

2. How all types of federal policy and spending, or the lack thereof, can help the millions of citizens living around the nations airports.

The *Airport and Airway Improvement Act of 1982* (AAIA) provides federal monies, through a Trust Fund, for the development of public-use airports in the United States. Airport proprietors may apply for these federal monies to expand airport facilities, including terminals and runways. Currently, the City of Chicago is engaged in a $1.5 billion dollar expansion of O'Hare International Airport, portions of which are being financed by funds allotted through the AAIA. The O'Hare expansion project presents the threat of social and economic disaster for the communities surrounding O'Hare and their 400,000 residents. The federal government, through its grant under the AAIA and its approval of the project, has become the enemy of the people I represent.

The language of the AAIA, in Section 2208, requires that before a project grant application can be approved for an airport improvement project the Secretary of Transportation must be satisfied that:

The project is reasonably consistent with plans for the development of the area surrounding the airport; and

Fair consideration has been given to the interest of the communities near the airport; and

The project provides for the protection and enhancement of the natural resources and the quality of the environment in the Nation; and

Where major runway extensions are contemplated, that the economic, social and environmental effects of the plan are consistent with the planning goals of the community and that the project will comply with all applicable air and water quality standards.

Unfortunately, the reality is that the federal government has awarded monies for expansion projects, including O'Hare, without regard for the interests of the surrounding communities. In the case of O'Hare for example, the project for which the grant was awarded is totally inconsistent with the plans of the surrounding communities. In addition, the federal government, by refusing to acknowledge that major runway extensions were involved in the project, was able to award the grant without consideration for the economic and social impact on the surrounding area and without certification that the project would not violate air and water quality standards.

In order to protect the residents of communities which surround the nation's airports the language of the AAIA must be strengthened to plainly require in all cases, regardless of the existence of a plan for a major runway extension, that the Secretary of Transportation not approve any project grant application unless the social and economic impact of the project on the surrounding communities is fully considered. The development plans of each affected community should be studied to determine if the project is consistent with them and hearings should be held on the impact of the project on the social framework of the community. In addition, no grant application should be approved for any project unless certification is made to the Secretary that the project will not violate applicable air and water quality standards.

Another deficiency in the AAIA is its allocation of funds for noise mitigation measures. Of the billions of dollars made available for projects to expand airports, thus inflicting more noise and ~~air pollution~~ on the surrounding area, only 8% is allotted for noise mitigation measures. To add insult to injury, the only way to get any of this meager 8% is to conduct a Noise Compatibility Study under the terms of ASNA. As I will discuss later, the legal implications of ASNA for private property owners will be devastating to our communities. The AAIA must allocate more dollars for noise mitigation measures, but these dollars should not be tied to programs conducted under ASNA which are of more harm than benefit to the communities near the Nation's airports. Instead, AAIA monies should be allocated for all types of noise mitigation programs, regardless of their statutory origin.

The O'Hare expansion program threatens to destroy the residential nature of the 14 communities which I represent, each of which was established before the first jet ever landed at O'Hare. Yet, the federal government gave no consideration to social impact of this project on our communities. The expansion of air traffic at O'Hare to nearly 1,000,000 operations per year at the turn of the 21st century, coupled with the City of Chicago's plan to conduct a Part 150 Study, under the *Aviation Safety and Noise Abatement Act of 1979,* 49 U.S.C. Sections 2101, *et seq.*, threatens to turn our 14 communities from settled residential areas into industrial parks, all with the approval of the federal government.

OTHER FEDERAL THREATS TO OUR COMMUNITIES

The federal threats to our communities include not only expansion projects approved under the AAIA but attempts by the FAA to limit the ability of local proprietors to control access and capacity in order to protect the environment, the failure of the United States Environmental Protection Agency to protect the air quality in areas surrounding airports, and the federal Part 150 Program.

Federal attempts to prevent local protection and the Federal part 150 program

In 1984, the Air Transport Association (ATA) filed a petition for rulemaking before the Federal Aviation Administration (FAA) in which it asked for federal control over airport use restrictions. (49 Fed. Reg. 43020, October 25, 1984). The ATA asked that all means of controlling noise be taken away from local airport operators. In response to this petition, the FAA dutifully published a proposed policy with regard to airport access and capacity issues, (51 Fed. Reg. 2985, January 22, 1986), which was the subject of a July 17, 1986 hearing by the Subcommittee on Aviation, Committee on Public Works and Transportation of the United States House of Representatives.

In its proposed policy, the FAA recognized that liability for damages rests with the airport proprietor. For this reason, the FAA encouraged proprietors to develop airport noise compatibility programs under Federal Aviation Regulations Part 150. The FAA stated that "[a]irport use restrictions may be considered only when other less restrictive alternatives are clearly shown to be inadequate and less effective ways to achieve the goals of the noise compatibility program." (51 Fed. Reg. at 2988). The FAA further provided that "[a]ny proposed restrictions on access should be submitted to the FAA for review." (51 Fed. Reg. at 2988).

The Suburban O'Hare Commission, on behalf of the 400,000 residents in the noise impacted area surrounding O'Hare Airport, testified at that hearing and voiced its strong objections to both the ATA petition and the FAA proposal on the following grounds:

1. The Courts and the FAA have previously recognized that airport noise regulation is properly the responsibility of the airport proprietor.
2. Whoever has the ability to control airport noise is obligated to compensate the victims of that noise for injuries to their property and their persons. Such liability encourages the proprietor to reduce noise.
3. The FAA is attempting to take regulation of airport noise away from airport proprietors without taking responsibility for the damages caused by that noise and to further shield airlines from responsibility for their actions.

According to the FAA itself, it is the airport proprietor, and not the FAA, which is responsible for the mitigation of airport noise:

> Airport proprietors are primarily responsible for planning and implementing action designed to reduce the effect of noise on residents of the surrounding airport. Such actions include . . . restrictions on airport use that do not unjustly discriminate against any user, impede the federal interest in safety and management of the air navigation system, or unreasonably interfere with interstate or foreign commerce.
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> We have been urged to undertake—and have considered carefully and rejected—full and complete federal preemption of the field of aviation noise abatement. In our judgment the control and reduction of airport noise must remain a shared responsibility among airport proprietors, users, and governments.

FAA and DOT Noise Abatement Policy Statement, at pp. 5, 18 (November 18, 1976).

DOT/FAA, and Congress in legislative history pronouncements have recognized the right of airport proprietors to propose use restrictions and adopt those that satisfy constitutional and statutory tests.

Report and Recommendations of the Airport Access Task Force Pursuant to PL 97-248, at p. 26 (March 10, 1983).

The Department [DOT], therefore, does not agree that the Federal Aviation Administration (FAA) should be given authority to pre-exempt state and local actions to deal with airport noise or that FAA has latent pre-emptive authority which can be tapped without statutory change.

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State and local noise abatement efforts are an appropriate means to address local noise problems.

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As a secondary issue, the Department believes that liability for damages attributable to aircraft noise properly belongs with the airport and aircraft operators. Absent the authority to affect local land use decisions, the assumption of liability for noise damages would place the Federal Government in the untenable position of being liable without the concomitant authority. Therefore, the Department has not sought nor does it seek the authority to pre-exempt local land use planning or to assume liability attributable to aircraft noise.

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Any other Federal intervention, whether it be the pre-exemption of state or local actions, the assumption of local noise liability or the several other issues identified in this report, is unnecessary and inappropriate. It is best that these access decisions be left in the hands of the people most affected by them—state and local authorities and the airlines.

Views of the U.S. Department of Transportation on the Report of the Airport Access Task Force, Report and Recommendations of the Airport Access Task Force Pursuant to PL 97-248, at p. 36-37 (March 10, 1983).

Federal and state courts have imposed liability for noise damages on the airport proprietor because it is the proprietor who has the ability to control the noise.[3] In order to mitigate noise impacts, the proprietor can purchase land in close proximity to the airport to be used as a noise buffer, pay for the soundproofing of homes and other buildings in the area or impose use restrictions. Plainly, airport proprietors and the airlines have sought to avoid costly noise mitigation measures such as the purchase of property.

The FAA also wishes to prevent proprietors from imposing any local use restrictions in order to further protect airlines from noise abatement restrictions and legal responsibility for their actions. Unless the FAA is willing to accept liability for the damages to property and persons caused by aircraft noise, the choice of noise mitigation measures must be left to airport proprietors.

The Suburban O'Hare Commission strongly believes that airport proprietors should continue to have the responsibility for the abatement of noise. The proprietor also must have the liability for any damages caused by airport noise.

The FAA proposal places heavy reliance on the Aviation Safety and Noise Abatement Act, 49 U.S.C. Sections 2101, et seq. (ASNA) and its implementing regulation, 14 C.F.R. Part 150 as means of abating airport noise. The Suburban O'Hare Commission has strong objections to the use of ASNA and 14 C.F.R. 150 to limit the liability of the proprietor for personal injury and property damage caused by airport noise.

Incidentally, the ATA originally favored ASNA because it would insulate airport proprietors and airlines from legal liability from the noise damage they cause.

The primary goal of ASNA is to remove "noncompatible uses", i.e., residences, from the area surrounding airports. The goal is not to reduce noise levels associated with airport activities. The end result can therefore be the destruction of established residential communities which surround the nation's airports. The area within the noise contour drawn as the result of a Part 150 study is branded unfit for residential use, property values decline, homes are abandoned and neighborhoods disintegrate. The FAA itself acknowledges that noise levels have a direct adverse affect on property values. For each decibel of noise exposure over 65 Ldn, the FAA estimates that property value declines 1-3%. Final Regulatory Evaluation: Metropolitan Washington Airports Policy, FAA-APO-81-12; Aviation Noise Effects, FAA-EE-85-2. In the case of O'Hare Airport, it is estimated that at least 94,000 homes are in the area which will be branded as unfit for residential use when the FAA approves, as it surely will, a noise exposure map for O'Hare Airport.

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[3] *See, Griggs* v. *County of Allegheny, 369* U.S. 84 (1962); *City of Burbank* v. *Lockheed Air Terminal, Inc.*, 411 U.S. 624 (1973); *British Airways* v. *Port Authority of New York*, 558 F.2d 75 (2d Cir. 1977); *City of Atlanta* v. *Owen*, 282 S.E.2d 906 (Sup. Ct. GA 1981); *Krueger* v. *Mitchell*, 112 Wis.2d 88, 332 N.W.2d 733 (1983); *Greater Westchester Homeowners Association* v. *City of Los Angeles*, 26 Cal.3d 86, 603 P.2d 1329 (1979), cert. denied, 449 U.S. 820 (1980); *San Diego Unified Port District* v. *Gianturco, 651 F.2d 130 (9th Cir. 1981), cert. denied, 455 U.S. 1000 (1981); Baker* v. *Burbank-Glendale-Pasadena Airport Authority*, 39 Cal. 3d 862, 705 P.2d 866 (1985).

Persons who move into the area after the map is drawn are forever barred from filing suit for noise related damage to their property even if the noise increases, as it surely will. Furthermore, the map and related data may not be introduced as evidence in any legal actions. In effect, ASNA allows an airport proprietor to redline tremendous amounts of property which surround an airport. The noise contour map brands an area as unfit for residential use and than destroys the rights of property owners to recover for damages to their property and persons which are caused by noise. It is fundamental under the American system of justice that people who are injured, in their persons or their property, can recover damages from the one responsible for those injuries. The FAA, through the Aviation Safety and Noise Abatement Act, 14 C.F.R. Part 150 and its Proposed Policy Regarding Airport Access and Capacity, is attempting to totally eliminate the rights of persons who live near the nation's airports to recover damages from anyone, the proprietor, the airlines or the FAA. They must not be allowed to get away with that.

The Aviation Safety and Noise Abatement Act is a legislative shield which protects the proprietor of an airport and the airlines which use it from having to pay for the property damage they cause to the surrounding area. Under ASNA, individual property owners bear the entire loss for the devaluation of their property and injuries to their persons. As stated above, when the City of Chicago submits a noise exposure map for O'Hare which is approved by the FAA, 94,000 homes in the City and surrounding suburbs will be branded uninhabitable. The goal of the City and the FAA will then be to move the people out of these areas by attrition. The program has the potential to totally destroy communities which were established generations before the first jet plane flew. The financial losses will be born by individual property owners, not the airlines or airport proprietors.

The FAA proposed policy would create problems for these communities above and beyond the problems which already exist under the Aviation Safety and Noise Abatement Act and 14 C.F.R. Part 150. The FAA states in the proposed policy that "[a]irport use restrictions may be considered only when other less restrictive alternatives are clearly shown to be inadequate and less effective ways to achieve the goals of the noise compatibility program." (51 Fed. Reg. at 2988). This is nonsense. It is meant to discourage the alternative which does the most to reduce the adverse noise impacts on communities surrounding airports. The FAA clearly favors alternatives which help the airlines make money rather than those which help the people who live near airports.

The FAA proposed policy also provides that "[a]ny proposed restrictions on access should be submitted to the FAA for review." (51 Fed. Reg. at 2988). Here, the FAA adopts the ATA proposal for federal review of airport use restrictions. As the ATA acknowledged, the United States Supreme Court has placed the economic burden of noise damage on the proprietors of airports. *Griggs* v. *County of Allegheny,* 369 U.S. 84 (1962). The ATA also acknowledges that the FAA would become liable for noise damages if it were to approve or disapprove the noise restrictions proposed by an airport proprietor. *City of Burbank* v. *Lockheed Air Terminal, Inc.,* 411 U.S. 624 (1973); *British Airways* v. *Port Authority of New York,* 558 F.2d 75 (2d Cir. 1977).

Clearly, the FAA, in its January 22, 1986 proposal, is attempting to have its cake and eat it too. The FAA plainly wants to prevent airport proprietors from enacting use restrictions. Yet it wishes to insulate itself from liability. The United States Supreme Court has recognized that the entity which has the power to restrict access to the airport to control noise is liable for the damages caused by that noise. It is our belief that if the FAA were to review any airport use restrictions and make statements concerning their propriety, even under the guise of a non-binding determination, the FAA will subject itself to liability for the noise damages caused by the airport in question. The FAA seeks to abolish all of the legal rights of the hundreds of thousands of residents of the communities surrounding the nation's airports. Its goal is make life as profitable as possible for airlines and as miserable as possible for airport neighbors. Congress cannot let the FAA get away with that.

Federal failure to protect the air quality of the nation

The USEPA has been grossly negligent in failing to set air quality standards to protect the environment of the nation from the harmful effects of overly dense aircraft operations. In the case of O'Hare, the EPA has repeatedly refused to even study the effect of aircraft operations on the air quality in the surrounding communities because it claims to have no authority to do so.

Many of the compounds used in jet fuel are known carcinogens which are regulated on other contexts, but not as aircraft emissions. For example, there are federal regulations that limit the amount of hours a gas station attendant can pump gasoline because the gasoline contains benzene, a known carcinogen. However, there is no protection for the citizens living near airports who are exposed, 24 hours a day, to the benzene from burned and unburned jet fuel.

The federal government cannot be allowed to coninue to pass the buck when the lives of millions of citizens are at stake. The FAA refuse to study the risk to the surrounding population because "cancer isn't our job." The USEPA refuses to study the problem because "we aren't authorized to do so." Instead, they seek to pass the burden to the states, who then respond "this is a federal issue, we can't do anything about it."

The USEPA is charged with protecting the air quality of the nation and the health of our citizens. USEPA must be compelled to study the health risks associated with aircraft operations and set enforceable standards for the toxic substances in jet fuel.

CONCLUSION

The FAA plainly wishes to encourage expansion of the nation's airport system with a minimal amount of consideration for the effects on surrounding communities. The FAA is seeking to discourage use restrictions and encourage other methods which have less impact on the airline industry. Further, FAA has continually sought to avoid federal study of the air pollution problems associated with aircraft operations.

As the laws of the United States stand today, residents of communities which surround airports have too little protection from airport noise and air pollution and from the social and economic impact of airport operations. We recommend that the following changes in federal law be made to give the 6,000,000 residents of the communities surrounding the nation's airports the protection they desperately need:

1. Under the AAIA, the Secretary should be prohibited from approving the expansion of any airport (expansion meaning any activity which will allow an increase in flight operations) without the approval of the government bodies surrounding the airport. To avoid the possibility of complete veto power by the surrounding communities, the local approval of the expansion decision should be made by a body comprised of the proprietor and surrounding communities.
2. Under the AAIA, the Secretary should be prohibited from approving any grant application unless the social and economic losses to the surrounding communities were included in the cost/benefit analysis conducted on the merits of the proposed expansion.
3. Under the AAIA, the Secretary should be prohibited from approving any grant application unless certification is obtained evidencing that the project will not violate air or water quality standards.
4. The AAIA should allocate more dollars for programs to mitigate aircraft noise. However, these dollars should not be tied to Noise Compatibility Programs under ASNA.
5. Those sections of ASNA which limit the legal rights of private property owners should be repealed.
6. The USEPA should be directed to study the health risks associated with exposure to burned and unburned aircraft fuel and be directed to set standards for the protection of the health of persons living near the Nation's airports.
7. The FAA should be directed to withdraw its proposed regulation on Airport Access and Capacity (January 22, 1986) and to permit local proprietors to take steps necessary to protect the local population from noise and air pollution.
8. The FAA should be directed to enforce its regulations requiring quieter jet engines. The FAA must cease its practice of giving continual extensions to the airline industry, must enforce the current regulations strictly and must adopt more stringent regulations.

Currently, the FAA and the Department of Transportation are attempting to expose the people who live near airports to even more noise, air pollution and social disruption so that airlines may increase their profits. It is time that the FAA, the airlines and airport proprietors face up to the damage that is caused by airport operations. Airports must be encouraged to be good neighbors rather encouraged to further damage the communities which surround them.

The FAA must be prevented from acting as a shield for the airlines and must be made accountable to the 6,000,000 people suffering from their deliberate and devastating policies. Federal statutes must require that the rights of these citizens be protected and that the agency be run for the benefit of all of the citizens of the United States and not merely the airline industry.

Senator **Kassebaum**. Thank you, Mayor Butler.

Mr. **Butler**. Thank you for the extra time.

Senator **Kassebaum**. Mr. Coverdale.

Mr. **Coverdale**. Thank you, Madam Chairman and Senators Exon and Ford. I appreciate this opportunity to present our views on the reauthorization of the Airport and Airway Improvement Program.

Because of the important role Illinois plays in providing a major link in the Nation's air transportation system, the site of today's hearing is appropriate and I would like to take this opportunity to welcome the members of the subcommittee to Illinois.

As we are all aware, the authorization for the Airport and Airway Improvement Program expires at the end of this fiscal year. Continued progress in improving the safety and efficiency of our air transportation system depends on an uninterrupted program which will provide funding that is adequate, not only to assure the stability of investments already made, but which will insure our ability to utilize more fully the revenues available from the airport and airway trust fund.

Any lapse in funding authorization will seriously jeopardize our ability to make necessary improvements in our State's general aviation, commercial service, primary and reliever airports. While such a lapse would not singularly impact our State alone, perhaps a brief description of Illinois' situation will be helpful to the subcommittee in defining the more specific parameters of programming and funding needs which need to be addressed in the next Congress.

One of the more difficult problems facing the Division of Aeronautics is the disparity in the level of funds requested by our airport sponsors compared to the amount of Federal funds that are actually available.

The Illinois Department of Transportation prepares on an annual basis a 5-year airport improvement program that is based on the request that we receive from our airport sponsors. We presently have requested totaling more than $514 million for the 5-year period. Any reference that I make to dollar figures are in 1986 dollars.

Our recently completed programming meetings with all the airports in the State indicate that this figure will increase significantly this coming year. The department's fiscal year 1987 through 1991 airport improvement program projections estimate that total Federal funding of approximately $139 million will be available. The department's program assumes the continuation of the AIP at the fiscal year 1987 authorization level of a little over $1 billion. This will result in a backlog of over $375 million over the 5-year period.

In the general aviation category we are faced with the issue of maintaining and providing 49 airports with only $3 million to $4 million annually in apportionment funding. Very little discretionary funding has been made available for general aviation projects and increases in this category are not anticipated. Current forecasts indicate that approximately $60 million in requests from general aviation airports will not receive funding during the 5-year period.

Commercial service airports have been faced with different problems, but the result is the same. Congressionally mandated improvements, coupled with increased competition for Federal discretionary funds in this category, have created a substantial backlog of requests. We are forecasting that 10 commercial service airports will not receive Federal funding of approximately $31 million in requests over the 5-year programming period.

All of the airports in the prime airport category require high priority improvements at funding levels again that greatly exceed entitlements. Major runway preservation and extension projects, in addition to terminal building capacity projects, have accumulated a large backlog in this category. The department's forecasting that at least $236 million in requests will not receive Federal funding during the forthcoming 5-year period.

Approximately $176 million comes from the city of Chicago for improvements to O'Hare and Midway Airports. The need to preserve and improve our reliever airport system has become crucial, as evidenced by the strong Federal and State commitment to the public acquisition of Palwaukee Airport.

The Federal Aviation Administration should be commended for their cooperation and financial assistance in preserving this much needed airport. To date over $20 million in Federal grants have been received for this project. An additional $11.5 million is still required in order to complete the original acquisition agreed by the FAA, the department and the local municipalities.

However, our efforts must not stop there. We must expand and modernize this vital segment of our airport system. The reliever airports in Illinois ease air traffic congestion in two of the busiest and most constrained airports in the country, St. Louis-Lambert International and Chicago O'Hare International.

Our reliever system houses over 2,300 based aircraft and account for over 1 million aircraft operations annually. Current programming estimates indicate that approximately $75 million in requests will not receive Federal funding during the 5-year period.

Although the level of Federal dollars coming to Illinois may appear substantial, it is significant that nearly 50 percent of those funds are expended at three airports. The city of Chicago, by the entitlement formula, receives approximately $14.5 million annually. In addition, the special program acquisition of Palwaukee Airport has received $6 to $7 million per year.

There is another potential funding problem that may be developed as a result of efforts to abate airport noise. There will be a critical need for noise mitigation funds to implement the part 150 studies which were undertaken as a part of the current airport improvement program.

Specific funding requirements cannot be protected since many of the part 150 studies have not yet been completed. However, when these studies are completed in the next 12 to 18 months, the demand for funds will be reflected in the new airport improvement program. A review of available noise impact data for O'Hare, Midway, and other Illinois airports, suggests that millions of dollars can be expended in this area to complete any program. Because these studies have been undertaken as a joint effort between the airport sponsor and the local communities, it is imperative that the implementation phase be completed as soon as possible.

As evidenced by the department's projected backlog of requests, AIP appropriations at the approximate $1 billion level will prove to be inadequate to meet the demand. The General Accounting Office is projecting an unused balance of over $12.4 million in the airport and airway trust fund at the beginning of the fiscal year 1991.

We strongly recommend a drawdown of the trust fund surplus with corresponding increases and appropriations over the 5-year period.

As I conclude, the Illinois Department of Transportation would like to commend the subcommittee for its early consideration of the reauthorization of the Airport and Airway Improvement Act. Without it the future of airport development would be in serious jeopardy. Thank you.

Senator KASSEBAUM. Thank you, Mr. Coverdale.

Mr. Mitchell.

Mr. MITCHELL. Thank you. Madam Chairman, Senator Exon, Senator Ford, I am Sam Mitchell, president of the Chicago Association of Commerce & Industry, which is also known as CACI; and I am not a lawyer.

The association is a voluntary organization of 4,200 individuals, firms and corporations that serves as the chamber of commerce for business and industry in the eight-county Chicago metropolitan area. Our association appreciates the opportunity to testify today before the Aviation Subcommittee of the Committee on Commerce, Science, and Transportation.

A prime CACI objective is to support action that strengthens Chicago's position as the aviation crossroads of the Nation and as an international gateway to North America. On August 7, 1981, the CACI Board of Directors unanimously approved a recommendation to support the general concept of the O'Hare Airport master plan. The following year, CACI's Board of Directors approved the concept of the revised O'Hare Airport master plan. This revised plan will enable the Chicago area to have an efficient state-of-the-art, world-class international airport to serve the air transportation needs of the region into the next century. The master plan projects will also help reduce aircraft congestion, pollution and noise levels at the airport. Most importantly, it will help to insure the further development of the Chicago region as a viable center for business.

It must be emphasized that CACI, as the principal spokesman for business and industry in the metropolitan area, recognizes the tremendous importance of O'Hare International Airport to the economy of the region.

Completion of the $1.7 billion O'Hare master plan in 1995 will benefit our region's economy in several ways.

First, the annual economic impact of the airport for the six-county Chicago metropolitan area will increase from the current $7 billion to $10 billion a year.

Second, direct employment at the airport will increase from 33,400 to approximately 47,800.

Third, the annual direct payroll at O'Hare will rise from $672.6 million to $953.3 million.

Fourth, indirect and induced employment surrounding O'Hare will rise from approximately 124,000 to more than 182,000 persons.

Fifth, the indirect and induced payroll will increase from $1.215 billion to $1.778 billion.

Sixth, air traveler direct and induced expenditures will increase from $2.6 billion to $3.9 billion.

CACI has also actively participated in the revitalization of Midway Airport. On April 19, 1983, the association testified in support of the Midway Airport master plan, which will help insure the continued development of the south and southwestern Chicago region. Implementation of the Midway master plan proposal is expected to increase the annual economic impact of the facility from $135 million in 1979 to $841 million by 1985. The Midway master plan will provide for an efficient, workable and environmentally acceptable airport to serve southwestern Chicago and its nearby suburbs for the foreseeable future. Furthermore, permanent employment as a result of the airport will increase from 3,700 in 1979 to 15,600 in 1995, with the annual payroll rising from $45.4 million to more than $200 million. The construction of these projects will inject some $187 million into the local economy on a one-time basis between now and 1996.

The Airport and Airway Improvement Act of 1982, which provides for the authorization of Airport Improvement Program funds, will expire on September 30, 1987.

CACI believes that the Nation's air system has realized major benefits as a result of the improvements funded by the Federal AIP. These grants have made a significant contribution to the development of airports serving communities of all sizes.

CACI historically has supported transportation user fees, as long as the funds that are generated are used for the purposes intended.

CACI strongly supports the reauthorization of the Airport and Airway Improvement Act and the Federal—I'm sorry—and the airway and airport trust fund.

CACI, however, has some concerns regarding the collection and allocation of moneys deposited into the fund and the fund's current balance.

Aviation industry sources have estimated and told us that approximately a $4.3 billion surplus exists in the trust fund as of September 30, 1986, moneys that have not been committed to any projects. CACI believes that all proceeds deposited into this account should be made available upon a reasonable showing of the need and prudent planning to finance improvements of our Nation's airports.

In Federal fiscal 1986 nearly $3 billion was generated and deposited into the funds from the 8-percent tax on passenger tickets and 5 percent on shipping waybills.

Also, the trust fund earned approximately $700 million in interest on surplus funds. The FAA should expeditiously approve worthwhile and eligible projects for fiscal year 1987.

In the past CACI has voiced concern that Chicago's FAA entitlement funds are far less than appropriate, since Chicago's airports generated far more trust fund revenues than they received in return.

In a September 29, 1983, letter to then FAA administrator, J. Lynn Helms, CACI urged the FAA to allocate approximately $30 million from AIP discretionary funds to finance capital projects that were critical to the maintaining and improving of Midway Airport. During that period Chicago airport's continued an average of $100 million annually into the trust fund, yet received much less in trust fund revenues.

CACI estimated during fiscal year 1985 more thn $200 million was disposited into the fund from taxes collected at Chicago area airports, yet only $26½ million was received in AIP entitlement and discretionary funds for airports in the Chicago metropolitan area. In fact, only $43.8 million in FAA funds were provided for airports throughout the entire State of Illinois.

CACI recognizes that FAA personnel costs for control tower operations and the Chicago Air Route Traffic Control Center operations are financed by trust fund proceeds. The trust fund revenues generated from Chicago's airports still far exceeds services and grants returned from the FAA. This disparity is another example of Illinois sending far more tax dollars to the Federal Government than it receives in return.

In regard to air traffic control system issues relating to the Chicago area, our association since October 4, 1968, has supported the expansion of capacity at our Nation's airports with more air traffic controllers and more efficient utilization of state-of-the-art air traffic control equipment to meet the growing transportation needs of our air traveling and shipping public.

The association, however, has opposed quotas, slot systems and other governmentally imposed air traffic limitations, which tend to be regressive steps and seriously hamper the continued growth of the Chicago land area and its important air transportation industry. This subcommittee received copies of our association's several policy statements on these traffic control system issues.

Madam Chairman, in summary, CACI fully endorses the renewal of these important Federal funding programs. These funds are critical to the maintenance and expansion of local air transportation facilities, which benefit the entire economy of northeastern Illinois and its 7.8 million residents.

From a national standpoint Chicago's air transportation facilities are the passenger and cargo hub for countless foreign and domestic markets. Our local and national transportation needs will suffer if adequate facilities in the Chicago area are not assured.

Thank you very much for giving us the opportunity to testify.

Senator **Kassembaum**. Senator Exon is going to lead off the questions.

Senator **Exon**. Thank you, Madam Chairman.

Mr. Mitchell, I listened with great interest to your testimony. A great deal of the airline traffic that comes into Chicago is generated by those of us who don't really want to come to Chicago at all. We come to O'Hare Airport only because it's a transfer point to other places.

Before I was Governor of Nebraska, I used to come into Chicago frequently as a businessman. So the fact that you are here—you are a major, wonderful city in the United States—is the real reason that people come here, even when they don't have this as their eventual destination.

I don't know that you are being treated unfairly, because I suspect a lot of the money that is used here, that you count as what rightfully might be a part of your trust fund share, is generated elsewhere.

I would suspect that this facility that we are located in and all of this business community around the airport wouldn't be here, were it not for the fact that we have an airport out there.

I do think that we are going to continue to help out O'Hare Field, because there isn't any question in anyone's mind that it's a major part of our overall communications and transportation system. But I frankly don't feel too sorry for you. Maybe that's because I'm from a part of the country that is hurting very badly right now.

In that regard let me ask a question of Mr. Coverdale. How has deregulation that has obviously spurred all of this industry and airport profit to Chicago and the Chicago area affected your other non-Chicago cities, especially with respect to service, fares, and schedules are concerned?

Mr. **Coverdale**. Senator, in my judgment deregulation has been a very positive thing for aviation for this Nation. Illinois probably is a State that might be somewhat better off than other States as far as requiring a central air service. We only have two communities now that are under the Essential Air Service.

Senator **Exon**. What communities are those?

Mr. **Coverdale**. I will have to provide that for the record.

Senator **Exon**. Springfield?

Mr. **Coverdale**. No, sir. Springfield is a very viable airport. We have a number of commuters that provide Springfield, but I will provide those names for the record.

[The following information was subsequently received for the record:]

Sterling-Rock Falls, IL; Mt. Vernon, IL.

Mr. **Coverdale**. In my judgment deregulation has brought us competitiveness, it's brought us lower air fares, it's brought us better equipment. I see much more on the positive side as far as deregulation than certainly on the negative side.

Senator **Exon**. Is it also true, then, that if you only have two airports today in the whole State that are under Essential Air Service, that would indicate that deregulation has been good not only for the Chicago area, but the whole State?

Mr. **Coverdale**. Yes, sir, I would agree with that.

Senator **Exon**. Thank you.

Are you in favor or do you have an opinion with respect to the continuation of the Essential Air Service Subsidy Program, at least until the original date when that was to terminate, which is October 1, 1988?

What about the possibility of terminating that program earlier than was indicated, as has been proposed by the Reagan administration? Do you have any feelings on whether or not the Essential Air Service Program should be continued after 1988?

Mr. **Coverdale**. Senator, in my personal judgment I would allow the subsidy to run out, to allow it the sundown clause, that we not support it beyond the——

Senator **Exon**. But support it until 1988?

Mr. **Coverdale**. Yes, sir.

Senator **Exon**. Thank you.

Mayor Butler, let me just turn to you for my last question, Madam Chairman, and that is, there isn't any question that you are expressing today a major concern that we hear over and over and over again. I guess those of us in decisionmaking positions with regard to how we solve this, don't know specifically what should be done to satisfy all parties. Obviously we are not going to close down the airport at O'Hare.

Are you suggesting that there be Federal legislation that would limit the number of flights or the time of flights into O'Hare?

Do you have some specific comments or suggestions as to what we could do at the Federal level to help solve the problem, that obviously exists to some degree here and in other parts of the Nation as well?

Mr. **Butler**. Yes, Senator. As you might suspect, I do have some thought on that, first of all, on the assumption that—that there would be an honest and sincere and total effort made by the airlines—specifically by the airlines—and the FAA to do whatever they possibly can to mitigate the noise; and I agree that the noise will be with us for ever and ever, amen. There is no way—at least in present technology—to eliminate that noise.

What the Federal Government has to do is to literally order that honest and sincere efforts be made to reduce a problem. Right now there is nobody demanding anything of anybody in order to reduce that problem. For example, there isn't even a permanent noise monitoring system out of O'Hare. The data you see is computer generated and I don't trust it and I don't know of any real expert that—neutral on the subject that trusts the data. There has to be that kind of an effort made.

Following that, then there has to be some serious thought given to the possibility of providing even a window at night during which people can sleep. The village of Bensenville, for example, if you can picture those several hundred thousand flights, there are homes that for days at a time don't know what it is to have a decent night's sleep. Maybe as a nationwide system we have to provide a little narrow window, some hours, if you please, during which people can at least grab some sleep.

Finally, then—and we are all taking about the sacrifices. The gentleman at the previous panel used that word "frequently," there has to be more sacrifice.

There has to be some sacrifice on the part of the airlines, and that is that if you are going to pound those people ceaselessly, as is happening now, they ought to benefit in some way. Diminution in their home value ought to be compensated, diminution in their quality of life ought to be compensated.

Technology is not going to solve this problem, but some concern for human values is going to, coupled with some—with some literal sharing of the benefits of all of this. Right now those 400,000 people in this area benefit very little from all of this.

Senator EXON. Let me ask you one final question.

Were you and the communities—your community and the other communities that you represented, when you gave us your earlier statement, were you carrying on this kind of an effort before the introduction of jets, or has this problem essentially come about since jet aircraft came into common use?

I suspect that the problem has even gotten considerably worse since deregulation, and the fact that you have more flights than ever before.

Were you or your predecessor involved in this problem before the jet?

Mr. BUTLER. Yes, we were. We were—and I wasn't in office, but I probably would have been equally naive. We were naive—the community was naive enough to buy a van and some noise measuring equipment, a bubble van, as we call it, and to assign some people and train people that can go out and take noise measurement. This is as the jet age reached maybe the middle of its curve.

They finally discovered—and probably should have discovered before they started—that it didn't mean anything. The local community has no control over this.

The second part of the question is that there was a stage in the development of O'Hare, of course, when the prop planes—and I have lived in two houses. The first home that I had was directly under the approach to 27 right and you could—the prop plane was tolerable. I will never forget the day the first jet plane—it was astounding, but there wasn't a period during which the noise was tolerable; but as the number of flights increased and the mix of the aircraft changed, it is has now reached what I consider inhuman condition.

So your point is well taken. It's gotten progressively worse and it's growing worse and nothing is being done.

Senator EXON. I guess I take it, Mayor, that more than anything else you would like to feel that you were listened to a little bit?

Mr. BUTLER. Well, beyond that.

Senator EXON. And if you were listened to, that some corrective action might be taken.

Thank you very much. Thank you, Madam Chairman.

Senator KASSEBAUM. Mayor Butler, I would like to ask you a question.

You said that the Park Ridge community and, I suppose, other surrounding communities, have benefited very little from their proximity to O'Hare; but let me ask you, putting it another way, if operations were to decrease at O'Hare, do you think the communities would suffer in any way?

Would people have to move who have jobs at O'Hare and so forth?

Mr. BUTLER. Well, that—we are always asked that question.

Senator FORD. You don't have a good answer, then.

Senator KASSEBAUM. That's right.

Mr. BUTLER. We have an answer but it seems to be a logical question.

But the question is, Then, how do you weigh this thing?

There are some of the communities that have obviously benefited but there are—those same communities are struggling to maintain sentiments of a residential quality. They are struggling not to give themselves over entirely to the airport.

If you—if we measure our quality of life by the dollars generated, of course some of those communities have benefited, obviously they have benefited; but what's happened to the individuals?

Not everybody works at the airport and not everybody works at an airport-supported business. It's—what we lack today is a balance. On the one hand we have—we have associations that just think it's glorious because there are jobs created, but from my viewpoint, for every job that is created somebody is suffering because of that.

Senator KASSEBAUM. Besides being mayor of Park Ridge, you are chairman of the Suburban O'Hare Commission?

Mr. BUTLER. Yes.

Senator KASSEBAUM. Has your group worked with the city of Chicago to try and achieve some understanding about mutual problems of, say, the noise abatement in airport improvements?

It seems to me that this would be terribly important if there is to be a thoughtful approach taken to the issue.

Mr. BUTLER. Senator, we have—we have tried and we have tried and we have tried. I am also vice chairman of the O'Hare Advisory Committee, which is a committee set up by court order—by Federal court order—as the result of a settlement of a Federal lawsuit we have filed; and I can tell you as a good example—and that's a good example—that committee has accomplished absolutely nothing. We couldn't even decide how to vote.

The problem is that there is no give at all, that—right now at O'Hare, for example, there is not one noise mitigation procedure specific to O'Hare in operation today and that's—you know, you can't talk these things through.

I'm convinced that there has to be a Federal or hopefully even a State level of a body that says, "You will do this without question," because they are not going to do anything voluntarily, and I don't think the airlines will permit them to do anything voluntarily.

Senator KASSEBAUM. Well, United just mentioned a procedure that they were undertaking and that they believed had quite a significant difference.

Mr. BUTLER. It has a significant difference, Senator, if you live quite a ways from the airport; but I would expect that the 400,000 people now impacted will hardly notice the difference. We think that the difference would probably be measurable by some kind of instrument, but to the human being you wouldn't discern a big difference.

That—and the problem there is that the—again, they have resisted putting in a noise monitoring system. If we had such a system, at least if a United plane went over, you could see some kind of a difference on a dial, which would at least have some comforting effect right now.

Senator KASSEBAUM. Let's say a noise monitoring system was in place and that there were high levels on this monitoring system. If there was ample Federal funding to try to address these problems, where would you spend the money?

What would be your top priority in trying to reduce the levels that would show on a monitoring system?

Mr. **Butler**. How would I spend the money?

Senator **Kassebaum**. What priority? Would it be——

Senator **Ford**. Retrofitting the airplanes.

Senator **Kassebaum** [continuing]. Retrofitting engines, or soundproofing of the schools? How would you use those Federal dollars if there were additional moneys?

Mr. **Butler**. I think the priority, of course, has to be in the procedure; and if it costs somebody some money to effect some sort of flight procedures that could correct the problem, then maybe there should be compensation in that form.

I suspect that you really can't throw money at this subject, at this problem. I suspect that it has to come about because of some restrictions in the way the planes are flown, in the hours the planes are flown and then—and then, as you pointed out, measure it and at least provide—when everything possible is done, provide money to soundproof homes, provide money to soundproof schools, or provide money in some manner to compensate those people or in some manner take off—in some manner perhaps create parts, which the element, though, would mean the destruction of those communities as residential areas; and that's what we worry about.

Senator **Kassebaum**. Senator Ford, do you have any——

Senator **Ford**. A couple of quick questions. How long have you been mayor of your community?

Mr. **Butler**. Fourteen long years.

Senator **Ford**. Fourteen long years. Do you fly?

Mr. **Butler**. Yes.

Senator **Ford**. Is being a mayor a full-time job?

Mr. **Butler**. No, sir; I'm paid $100 a month so the line is not very long.

Senator **Ford**. I can understand why you have been there 14 years.

Mr. **Butler**. I have a high tolerance for pain.

Senator **Ford**. What kind of business are you in, Mr. Butler?

Mr. **Butler**. I am a manager-consultant serving the automotive parts industry.

Senator **Ford**. This commission you say you are vice chairman of that was appointed as a result of a Federal lawsuit, the membership of that commission. Was it mandated by the court or what did the court say in selection of that commission?

Mr. **Butler**. My recollection is that the court said it should be representative of a wide range of interest. Right now it's—for instance, General Coverdale is on it, representatives of the airlines through the ATA are on it, the Chicago Association of Commerce and Industry is on it, members of the—representing the various community groups are on it. So it's a broad——

Senator **Ford**. How many members do you have?

Mr. **Butler**. I think there are 13, 11 or 13.

Senator **Ford**. Well, it's uneven, anyhow? You said 1 minute ago you all couldn't make up your mind to where you couldn't even take a vote.

Mr. **Butler**. That's right.

Senator **Ford**. That shows a difficulty of even those who are here being represented today cannot make up their minds—I am just going by what——

Mr. **Butler**. It's a different problem, because the community groups happen to end up with the majority, so, of course, they didn't want to—they didn't want a straight Robert's Rules majority. They would rather have consensus.

Senator **Ford**. You have city council?

Mr. **Butler**. Yes.

Senator **Ford**. When you vote on something does the majority win?

Mr. **Butler**. You're darn right.

Senator **Ford**. Try that on the committee.

Mr. **Butler**. We did it finally.

Senator **Ford**. What is a true report on the effect to air and water, a true report?

Mr. **Butler**. Well, the fact remains now, Senator, that there has never been a study of the effects of aircraft emissions.

Senator **Ford**. You said we need the truth and that indicated that the reverse would be a true if it was taken and so——

Mr. **Butler**. I understand. The reason for that comment was that in the environmental impact statement it measured the air quality that might be impacted by the airport expansion in terms of the emissions on field and caused by—and also caused by vehicles, ground vehicles, in the area. There was not one study done in any community that measured the impact or even the results of aircraft emissions. It's totally void.

Senator **Ford**. The only suggestion you have made here today to try to balance interest of the localities, yet ensure adequate access to growing numbers of aircraft, is a tiny window sometime during the night.

Mr. **Butler**. No, that's not what I said. I do not accept the fact that everything now is being done in the way of flight procedures, for example, that can be done to mitigate the problem; but I don't fly airplanes and I don't run airplanes and I don't own an airline. All I'm saying is that there ought to be an honest effort made to be certain that everything physically and mechanically is done to mitigate the problem.

It's not up to us to specify how the problems are. We are the victims. It's like asking the victim what shape the guillotine should be. All we want to be certain of——

Senator **Ford**. Is be sure it's sharp.

Mr. **Butler**. Be sure it's sharp and clean and that everything done is being done to make it as painless as possible.

Senator **Ford**. General, what amount of money does Illinois expect to put into the airport improvement expansions in the 5 years that you alluded to as related to Federal Government a moment ago?

Mr. **Coverdale**. The State, Senator, historically has expended $3 to $4 million each year as part of its share. It will increase this next year due to an additional funding requirement at our Champaign Airport, a special grant of $4 million specifically at Champaign.

Senator **Ford**. What is the budget for your department?

Mr. COVERDALE. Our budget is $52 million for airport improvement in fiscal year 1987 total. That includes the Federal funds.

Senator FORD. That includes the Federal funds?

Mr. COVERDALE. Yes, sir.

Senator FORD. Can you separate the Federal funds out from the State funds?

That would be $48 million from the Federal and $3 to $4 million from the State?

Mr. COVERDALE. Yes, sir, approximately in that area. Again, this next year will be slightly higher because of the additional $4 million dollar State grant——

Senator FORD. To match Federal.

Mr. COVERDALE [continuing]. Activity at the Champaign Airport.

Senator FORD. All right, sir.

Of course, I know all these decisions are made locally and they are made basically on economic benefits. Let me just ask Mr. Mitchell one quick question and I am through, Madam Chairman.

What is a reasonable return on trust fund payments? That seems to be something that we bounce around here a little bit. I haven't gotten an answer yet but maybe we can try.

Mr. MITCHELL. Senator, I would say at least an 80/20 situation in Illinois in total exports, about $32 billion to the Federal Government and gets back——

Senator FORD. Annually?

Mr. MITCHELL [continuing]. Annually, and gets back somewhere in the area of about 22. The spread is about $12 billion, almost 50 percent. It would seem that an 80/20 situation would be necessary looking at it as a State basis.

The general has, I think, very adequately talked about the needs of the aviation system. Obviously my group is somewhate more parachoial toward the metropolitan area, but I would think an 80/20 return of the trust funds would be considered very reasonable.

Senator FORD. Thank you, Madam Chairman.

Senator KASSEBAUM. Mr. Mitchell, you have hoped to see a greater allocation of funds to O'Hare?

Mr. MITCHELL. To the region, ma'am.

Senator KASSEBAUM. Well, to Midway.

Mr. MITCHELL. And to what we call the Aurora Center, to the towers. we would like to see improvements in the equipment used within the airway system.

Senator KASSEBAUM. Do you have a priority of needs, based on the funds available, as far as noise abatement or air traffic control concerns?

Have you an agenda?

Mr. MITCHELL. Our agenda is really primarily safety first and anything that can expeditiously move the equipment through the system at the highest possible degree of safety.

Senator KASSEBAUM. Midway, of course, serves in many ways a very important function. Its location in southwestern Chicago, I would think, might preclude any major increase.

How do you—and how are you working in your planning as far as improvements that might increase operations at Midway, given the noise level concerns, and so forth?

Mr. MITCHELL. We see Midway as a, if you will, minihub airport. The average flight distance on a flight into O'Hare is about 800 miles. From Midway it's about 3.

We see it as not a commuter airport obviously, but a shorter haul airport with--particularly with the new rapid transit extension, it will be very, very important for the short-haul commuter. We see it as an important situation, because the Seventh Federal Reserve Bank runs their checks through Midway. They estimated were Midway to be curfewed from midnight to 6, let's say, it would add 1 day to the float of all the checks clearing the Seventh Federal Reserve Bank.

So it is a very important situation. Our understanding of the—not only the fixed-base operators, but the commercial carriers and general aviation, they are very noise conscious and they are putting in procedures and upgrading and improving equipment as quickly as is humanly and financially possible to be good neighbors to the area.

Senator KASSEBAUM. Mr. Coverdale, you mentioned the reliever airports and the general aviation airports, and, of course, we would wish that there were unlimited moneys in the Airport Improvement Program.

Given the allocation of those moneys—I think reliever airports receive about 10 percent of the funding and general aviation about 12 percent—do you think there should be any realignment of these percentages?

Mr. COVERDALE. Senator, I do not believe that we should change necessarily the distribution of those funds, but only the increase. We find that we are just underfunded in both areas.

If I might add for the record—and Senator Exon, concerning your question—our two essential air service airports in Illinois are Mt. Vernon and Sterling Rock Falls.

Senator KASSEBAUM. Some have suggested that the 1 percent of the AIP funds which goes to State planning, which is about $10 million, be eliminated, on the basis that this money has not been put to effective use.

Ten million dollars isn't a lot in light of a $1 billion fund for an AIP program, but would you agree that this perhaps could be eliminated without any real harm and used somewhere else?

Mr. COVERDALE. Senator, no, I would not agree with that. We feel in Illinois that those funds are used to a very great degree. They are very important to us in assisting us in the planning and programing effort and insuring that we develop a logical State system plan that fits with the national system's plans.

Senator KASSEBAUM. Finally, I'd like to ask if either Mr. Mitchell or Mr. Coverdale has a comment to Mayor Butler's stated belief that it's been very hard to work together to achieve some efforts of coordination in concerns between the suburban areas and O'Hare.

It seems to me that coordinated planning would be absolutely essential if there is to be an expansion that is going to be supported to any great extent by the community.

Mr. MITCHELL. Senator, if I may, I think that Commissioner Butler and Commissioner Hord from the city are much better equipped to do that. While my organization is represented, I do not sit on that—on that body and really can't make a good comment.

I would comment, however, that currently O'Hare right now is worth about 28,000 jobs, direct jobs, imputed another 80,000. At the end of the expansion that will go to 47,000 to 50,000 direct and 120,000 imputed, and if anything is done to decrease that growth or stop that growth, we will, in fact, export existing jobs to the State that suffered worse—as badly as any State in the last recession.

We are facing severe economic problems with our agricultural communities, which is a vital portion of our State. We need the growth, we need to maintain the jobs we have. We are concerned that any real abuse to the airport in terms of restrictions and quotas will also have great national impact, not only with the Federal Reserve System, but with the tremendous amount of mail that goes through O'Hare each and every night. So it is certainly a local issue but it has significant national impact.

Senator **Kassebaum**. If there are no—no further——

Senator **Exon**. Just one comment, Madam Chairman. I want to thank Mr. Mitchell, Mr. Coverdale, and Mr. Butler for some very interesting testimony. I appreciate it.

Just one little question; and I might give you a little bit of advice, Mr. Mayor.

Are you a Republican or Democrat?

Mr. **Butler**. Republican.

Senator **Exon**. I suspected that was the case. My advice to you is even we who live in Nebraska know that with the considerable difficulties that you have had with city government, city government is run by Democrats.

Have you ever considered changing your registration?

Mr. **Butler**. No.

Senator **Ford**. This is a purely nonpolitical meeting.

Senator **Exon**. I can see we aren't going to get anywhere. Your testimony was excellent. We do appreciate your comments.

Mr. **Butler**. But I do like you as an individual.

Mr. **Coverdale**. Madam Chairman, if I just might make one more comment concerning your last question to us; and that is concerning airport regulation.

In my judgment the Federal Government should not regulate the activities at an airport, nor should State government regulate activities at an airport. That is the responsibility of the airport authority that represents that local community, represents the city, it represents the counties or in some cases it might be the regulatory authority is a park district; but they represent that local community and they are then and would be responsible for any actions that they take either that improves or enhances that airport or determines the economic impact on that airport and what they do. If they determine to restrict the activities at an airport, they are the ones responsible for that, and I think it's better left in their hands.

Mr. **Butler**. Good point.

Senator **Kassebaum**. Thank you very much. I appreciate that and I'm sure all those in charge of airport authorities around the country will be pleased to hear your strong comments in that respect. I certainly thank the panel very much for your comments.

Mr. **Butler**. Thank you.

Mr. **Coverdale**. Thank you very much.

Senator KASSEBAUM. I'd like to call for the next panel a separate witness, who, because of time constraints, does have to leave. This is Mr. Joseph Bellino, National Air Traffic Controllers Association. After his testimony we will take a half-hour break before the third and fourth panels.

Mr. Bellino.

It's a pleasure to welcome Mr. Joseph Bellino, National Air Traffic Controllers Association, who has to be back on the job at a certain time.

Mr. Bellino, welcome.

STATEMENT OF JOSEPH BELLINO, NATIONAL AIR TRAFFIC CONTROLLERS ASSOCIATION

Mr. BELLINO. Good afternoon, my name is Joseph Bellino. I am an air traffic controller at the O'Hare Tracon and local representative for the NATCA. I have been a controller for 21 years and have worked on and off at O'Hare since 1968.

Since the strike of 1981 the FAA has attempted to rebuild the air traffic control system. Now in 1986, it tells the Congress and the American people that it has accomplished its goals. It has not.

The FAA has failed because a system that is rebuilt should be as good as the one it replaced. This one is not. The Nation's air traffic control system remains crippled, not only because of the strike, but because of substandard management practices and questionable consulting arrangements.

However, the problems with the system go far deeper. Another area of concern is the millions of dollars that are being pumped into hardware for which no software exists or is ever likely to exist. O'Hare has a new flight data entry printout in our tower, but no software to make it work.

The FAA also has a program to install ARTS IIIA equipment on a nationwide basis. O'Hare has had ARTS IIIA since approximately 1979, but no operationally effective software to run it, thereby rendering the system useless. An integral part of the ARTS IIIA is SRAP, the sensor receiver and processor system, which is used in conjunction with the ASR-9 or airport surveillance radar.

Once again, there is no operationally effective software for SRAP so the O'Hare Tracon and other high-density facilities have an impresssive array of hardware that does not function.

There are similar software problems with the HOST computer which was scheduled for implementation in 1987 and now has been rescheduled for possibly 1997. Again, no operationally effective software is available or is likely to be.

The entire flight data entry printout system failed on October 8 and 28, 1986. Every flight plan had to be handwritten at O'Hare, Midway, Meigs, and approximately 22 other facilities that O'Hare controls. When it's working the FDEP is so slow that it cannot print flight plans for aircraft at O'Hare that are ready for departure and a plane cannot depart unless we have a clearance to issue.

The problem comes to a head most evenings between 6:50 and 7:10, when, because of our present FDEP's slow rate of printing, aircraft cannot depart. The airport sinks as we have too many aircraft on the ground.

The FAA's solution to the dilemma staggers the imagination. Despite the FAA Administratior's promise to the contrary, the number of systems specialists staffing Chicago's airway facilities will be reduced from 104 to 90 effective January 1987.

An air traffic control system that is rebuilt is one that should be able to function without the constant use of overtime. At O'Hare and other facilities, overtime is being used at an ever-increasing rate. Flight rates have increased at O'Hare and the facilities we serve. Since deregulation and the lifting of flight restrictions, we have had no appreciable growth in qualified personnel.

The FAA Administrator, Admiral Engen, has stated that fewer controllers can work more aircraft because of higher technology. The assertion is wrong. The technology used today at O'Hare is the same I used in 1971.

At O'Hare there is a steady stream of aircraft with two or three planes landing every minute. No matter how sophisticated the working technology, you still need controllers to separate the traffic.

Many controllers are on a 6-day week and some recently worked 13 days in a row and in one instance 19 days in a row. These same controllers that work 13 and 19 days in a row also work double shifts amounting to a 16-hour consecutive shift. A controller putting in such a schedule cannot possibly be as effective or alert as someone working more reasonable hours.

As of January 1987, O'Hare will go to a scheduled 6-day week. This is not the sign of a rebuilt system, rather the opposite. The FAA has also been playing a semantics game with the number of full performance level controllers or FPL's at O'Hare Tracon.

I see that my time is up. It is very important for me to state that prestrike—and these numbers are not official because I was unable to obtain them—we had 65 to 67 FPL's that worked approximately 800,000 airplanes a year. Now we have approximately 20 FPL's that work approximately 1 million flights a year. Thank you for listening to me. I think my being here says a lot for the system.

[The statement follows:]

STATEMENT OF JOSEPH M. BELLINO, NATIONAL AIR TRAFFIC CONTROLLERS ASSOCIATION REPRESENTATIVE, O'HARE TRACON

Good Morning. My name is Joseph M. Bellino and I am an Air Traffic Controller at the O'Hare Terminal Radar Approach Control (TRACON) and local representative for the National Air Traffic Controllers Association (NATCA). I have been a Controller for 21 years and have worked on and off at O'Hare since 1968.

Since the strike of 1981, the FAA has attempted to rebuild the Air Traffic Control System. Now, in 1986, the FAA tells the Congress and the American people that it has accomplished its goal. The FAA not only boasts that the Air Traffic Control System has been rebuilt but goes so far as to say that it is better in many respects than its predecessor.

I am here today to tell the Subcommittee that the FAA has failed. It has failed because a system that is rebuilt should be as good as the one it replaced. This one is not. I base this statement on my personal experience and those of my fellow Controllers at O'Hare TRACON.

The nation's Air Traffic Control System remains crippled, not only because of the strike but because of substandard management practices and questionable consulting arrangements. In the latter case, we are very concerned by the revolving door that exists at the FAA. We who work within the system watched with distress as the Director of Air Traffic Services AAT-1, R. J. Van Vuren, and his subordinate, Ray Alvarez, set policy requirements for the FAA, retired, and then set up a company whose services just happened to match substantially those earlier directives that they themselves imposed. It is my understanding from NATCA's National Coordinator, John Thornton, that the House Post Office and Civil Service Subcommittee on Human Resources has been looking into this problem. It appears to me and my fellow Controllers that these consulting arrangements benefit the consultants far more than they do the safety of the Air Traffic Control System.

However, the problems with the system go far deeper. Another area of concern is the millions of dollars that are being pumped into hardware for which no software exists, or is ever likely to exist.

We at O'Hare have a new FDEP (Flight Data Entry Printout) in our tower but no software to make it work. The FAA also has a program to install ARTS IIIA equipment (Automated Radar Terminal System IIIA) on a nationwide basis. O'Hare has had ARTS IIIA equipment since approximately 1979, but no operationally-effective software to run it, thereby rendering the system useless. An integral part of ARTS IIIA is SRAP, the Sensor Receiver and Processor System, which is used in conjunction with the ASR-9, or Airport Surveillance Radar. Once again, there is no operationally-effective software for SRAP so the O'Hare TRACON and other high-density facilities have an impressive array of expensive hardware that does not function.

The FAA's ability to purchase expensive hardware, without being concerned about its operational effectiveness, does not stop with the equipment already mentioned. The FAA has spent more millions upon a system known as the HOST computer. This system, scheduled for implementation in 1987, has now been rescheduled for possibly 1997. Again, no operationally-effective software is available, or is likely to be.

The entire FDEP system failed on October 8 and 28, 1986. Each and every flight had to be hand written for O'Hare, Midway, Meigs, and approximately 22 other facilities that O'Hare controls. Even when it is working, the FDEP is so slow that it cannot print flight plans for aircraft at O'Hare that are ready for departure, and a plane cannot depart unless we have a clearance to issue.

The problem comes to a head most evenings between 6:50 PM and 7:10 PM when, because of our present FDEP's slow rate of printing, aircraft cannot depart. The airport "sinks" as we have too many planes on the ground. O'Hare resembles a full parking lot as aircraft taxi around waiting for an open gate to deplane their passengers. The FAA's solution to this problem staggers the imagination; effective January 1987, the number of systems specialists staffing the Chicago airways facilities will be reduced from 104 to 90. The reduction comes after FAA Administrator Donald Engen visited O'Hare in August 1986 and stated that the FAA would increase the number of system specialists. I would further point out that when the FDEP system failed on October 28th, there were no FDEP technicians on duty.

An Air Traffic Control System that is "rebuilt" is one that should be able to function without the constant use of overtime. At O'Hare and other facilities, overtime is being used at an ever-increasing rate. Flight operations have increased at O'Hare and the facilities we serve. Since deregulation and the lifting of flight restrictions, we have had no appreciable growth in qualified personnel. Admiral Engen has stated many times that fewer Air Traffic Controllers can work more aircraft because of higher technology. The assertion is wrong. The high tech the Administrator speaks of sits in crates for lack of software. The technology I use today at O'Hare is the same technology I used in 1971. At O'Hare there is a steady stream of aircraft, with two or three planes landing or departing every minute. No matter how sophisticated the working technology, you still need Controllers to separate the traffic.

What is the result of the FAA's policy on management and rebuilding? Many Controllers are on six-day weeks and some recently worked 13 days in a row and in one instance, 19 days in a row. These same Controllers who have worked 13 days and 19 days in a row also worked double shifts amounting to sixteen consecutive hours on shift. A Controller working 13 working days in a row, no matter how dedicated, qualified and responsible, cannot possible be as effective or alert in the 15th hour of a 16-hour shift as a Controller in the seventh hour of an eight-hour of a 16-hour shift as a Controller in the seventh hour of a an eight-hour shift, especially if this is on his or her 13th day. We have been informed that as of January 1987, O'Hare will go to a scheduled six-day week. This is not the sign of a rebuilt system, but rather the opposite.

The FAA also been playing a semantics game with the Congress and the American people on the number of Full Performance Level Controllers at O'Hare TRACON. As most of you are aware, Full Performance Level Controllers, or FPLs, are journeymen capable of working every position in the facility. As of today, O'Hare has possibly 20 FPLs in the TRACON as compared to aproximately 65 to 67 FPLs that were there in 1981. However, in pre-strike 1981, those 67 FPL Controllers handled approximately 800,000 flights per year. Today, five years after the strike, approximately 20 FPLs now work in excess of a million flights per year, and we are losing qualified personnel at an alarming rate.

The FAA apppears desperate in its attempts to show an increase in the number of FPLs at O'Hare TRACON. Up until last week, the agency was toying with the idea of splitting the TRACON into two parts based on function. Through a very clever maneuver, the FAA would have been able to claim that it had doubled the number of FPL. Not true. What the FAA considered was redefining FPL to meet its public relations needs.

A true FPL at O'Hare should be capable, for example, of working positions A, B, C and D. The FAA would have had two TRACONs, one comprised of Controllers who could just operate positions A and B, and one made up of those who could only operate C and D. By twisting the true meaning of FPL, the FAA could have claimed that the Controllers at the TRACONs were capable of operating at all positions and were therefore FPLs.

What the FAA was not saying was that the Controller at TRACON 1 was not capable of performing the duties of the Controller in TRACON 2. These would have been FPLs created by an administrative order to fool both the Congress and the American people. With the stroke of a pen, developmentals or trainees would have become FPLs. Fortunately, the FAA abandoned this ill-considered plan but it gives you an idea of the thinking that is going on at that agency.

One final indication that the Air Traffic Control System is not rebuilt and functioning is my presence before you today as a prepresentive of the National Air Traffic Controllers Association. My Union activities and testimony this morning will not sit well with my employers. The ax that I grind may remove my head. But here, it is, five years after the strike and you are hearing many of the same complaints that were aired five years ago. In the past six months, I have seen a 17-year veteran resign, to be rehired as a Controller at another facility in the Southern region. Two other Controllers have informed O'Hare mangement that they no longer can tolerate the volume of traffic at O'Hare. Those of us who watched our fellow Controllers walk a path to destruction are now ourselves seeking the protection of a new union. However, NATCA has taken a no-strike position and we have discared the counterproductive tactics that embroiled the Controllers in so many controversy.

The mere fact that so many of us are looking to a new union is a message in itself. We are not "malcontents" or "troublemakers," as the FAA would have you believe, but concerned men and women who want a safe and efficient Air Traffic Control System. The FAA has not adequately provided for these essentials so we now try another approach that we think will work.

Madam Chairman, thank you for listening to me today. We at O'Hare and at facilities across the nation appreciate the deep concern that you and your subcommittee have shown. The proof of what I have told you today is in the FAA records that can be found at every high-density facility across the nation. All you need is an interpreter, and I and my fellow Controllers would be honored to help.

Thank you.

Senator KASSEBAUM. Thank you, Mr. Bellino. I am pleased you are here and appreciate your testimony. I think it says something for the system, too, that we do have air traffic controllers who can raise some constructive criticisms and enable us to try and sort through some of the answers.

You have raised several questions about equipment problems.

Mr. BELLINO. Yes, ma'am.

Senator KASSEBAUM. What recommendation, if any, do you have to help solve some of these equipment problems?

Mr. BELLINO. Oh, yes, ma'am. The preventive maintenance program that was standard with the FAA has been significantly cut back or terminated. Technicians that keep the system running have been cut back significantly. Although we, of course, need more controllers, without the equipment to work the aircraft, we run into a great dilemma.

Senator KASSEBAUM. Any other——

Mr. BELLINO. Hire more people. We need more controllers at O'Hare. Many of the questions I have heard discussed in the previous two panels could be resolved with more controllers: such as running a three-runway operation and arrival operation at O'Hare. If we had the people, there is no doubt that that could be accomplished easily with what we have.

Senator **Kassebaum**. So obviously with all of the construction that is going on at O'Hare and the expanded onground land site capacity, you feel there are not enough air traffic controllers to really safely and efficiently handle additional traffic?

Mr. **Bellino**. Well, ma'am, I hear people talking about expanding O'Hare, expanding Midway. We controllers in the O'Hare Tracon are the controllers that work it.

If you have less and less controllers—and we have controllers that are leaving the facility by choice and not by choice, because they can't handle the traffic, if we have a lessening of controllers and an increasing of the workload, it's very easy to see that there is a problem. Increase Midway, expand Midway, build a new airport, and we are still going to be the controllers that work it. I think that has to be addressed.

Senator **Kassebaum**. The FAA since last May implemented some procedural changes at O'Hare, one of them being that a controller who is relieved by another should remain in his or her position for an additional 30 minutes to help phase in the work at that point. Is this working?

Do you believe this is an important procedural change?

Mr. **Bellino**. I don't believe that that's an important procedural change. I see the effectiveness, until such time as the relieving controller has the total picture and the controller who relieves him can see the relieving controller is now working the position completely and the controller who is relieved leaves. A time limit means absolutely nothing.

Senator **Kassebaum**. I don't know if you were here earlier when I asked the question about the two recommendations by the National Transportation Safety Board that were put in place for about, I think, 2 or 3 days in answer to some runway incursions here.

Mr. **Bellino**. Senator, if I may. In my opinion, in both of the situations that occurred at O'Hare, had procedures been followed they never would have occurred.

I believe the National Transportation Safety Board is more an expert than I. However, had the procedures as set forth in FAA guidelines and regulations been followed, neither one of those runway incursions would have transpired. I would be happy to explain why.

Senator **Kassebaum**. Do you think the recommendations by the National Transportation Safety Board were—would have been useful?

Mr. **Bellino**. Absolutely not. Following the regulations as they exist today, this situation could not have occurred to begin with——

Senator **Kassebaum**. What was not followed, then?

Mr. **Bellino**. Two controllers working conflicting runways is against FAA guidelines as was the cases in which the aircraft departing 32 Left was being worked by one controller and the aircraft arriving on 9 Left was being worked by another controller. That's in conflict as I see it. It's against FAA guidelines.

The US Air aircraft departing 32 Right and the American departing 4 Left was definitely in conflict and that controller was reading reroutes to the aircraft on the ground.

FAA guidelines state that a local controller will continually scan the runways. It is very precise in that. If that controller was scanning the runways rather than reading down, he would have definitely seen whether or not the US Air had departed. Had he not seen it, he would have seen them both going, anyway, and would have been able to take corrective action.

Senator KASSEBAUM. Whose responsibility is it that the guidelines were not followed?

Mr. BELLINO. Ma'am, as in anything else, it's the management's responsibility to make sure that they are followed. It's the supervisor on duty, in my opinion. The supervisor is the one who sets up what positions the controller will work.

In the first instance that I brought up with the 32 Left departure and the 9 Left arrival, it was the supervisor's determination that the traffic could move more effectively had they split those positions.

It's been proven because of systems errors in the past that a controller should work one area, and only one area, because he knows each and every aircraft within its confines. To go against it may—may have—and I only say may have because I don't know—may have increased the traffic flow. Nevertheless, it certainly presented a problem.

Senator KASSEBAUM. Thank you.

Senator Exon.

Senator EXON. Mr. Bellino, I want to thank you for coming here today. This was probably not an easy thing for you to do.

Mr. BELLINO. No, Senator, it's not.

Senator EXON. I thank you and the people of America should thank you.

There have been those of us who have been pointing out to the FAA time and time again that we do not have enough air traffic controllers. I don't know where we are going to get them.

I would simply say that maybe under a one-on-one basis and if traffic controllers that struck would come back without any benefits—I happen to have supported the President in his action. Evidently you did also or you wouldn't be here today.

Mr. BELLINO. Yes.

Senator EXON. I simply say that the President, through the top officials of this Government, are overlooking a very hazardous situation. I compliment the other people that have addressed this today, but time and time again we find that the top airline officials aren't very forceful when they talk about the shortcomings that we have in aviation.

As a frequent traveler into O'Hare I never used to think about the problems—the threat of midair collisions. There is not a time that I don't come into O'Hare anymore, like I did this morning, when I don't at least consider the chances of it happening.

I first want to say that, in my opinion, you controllers are terribly overworked right now. And with the declining force that we are going to have in experienced people in the future, I suggest that 1 year from now or 3 years from now, we are going to be in a much more serious situation than we are right now.

Do you agree?

Mr. BELLINO. I agree with you completely.

Senator EXON. A survey was recently done by the General Accounting Office of your counterparts that indicated that 60 percent of them did not want any of the fired PATCO controllers to come back.

Do you share the results of that survey?

Mr. BELLINO. Senator, are we talking about a personal opinion? Are you requesting my personal opinion, the union that I represent, their opinion?

Senator EXON. I would appreciate your personal opinion, if you can give it, and I think you can.

Mr. BELLINO. I can.

Senator EXON. I would appreciate the position of your group, and I would appreciate any other position that you want to take.

Mr. BELLINO. Senator, personally I believe that with the number of journeyman controllers we have in the Tracon, the quickest checkout would be fired controllers. That's my personal opinion and I think the FAA can do that selectively, so to speak. That's my position.

All I care about is getting the people in there, so I work 5 days. That's my only concern. The union's position is that it is standing by waiting for a GAO study that has just come out, and I don't know what the results are. The union has stated that if the GAO study states that the controllers overall have voted to return the controllers, it will support it.

If the GAO study, the survey of working air traffic controllers, shows that they do not want to see the controllers back, they will support that. They are a representative group. The FAA stance, as I understand it, is that they will never rehire the controllers.

My own personal opinion is if there is a leak in the dam, you had better stick a finger in it. I don't care how you do it, but you had better stick a finger in it, because otherwise that crack in the dam is going to increase and get larger and larger. I just want it fixed.

Senator EXON. Mr. Bellino, I thank you again. Every person in America should understand what you are just saying. It's the heart and soul of the matter that I indicated in my opening statement. I don't know whether you were here or not. I said there are three major concerns that I have, No. 1, safety; No. 2, safety; and No. 3, and not the least, is safety.

We do not have the degree of safety that we should have in our airways today. I am simply saying—and I'm going to be saying this again. I'm going to be very forceful, as forceful, if not more so, than I have been in the past. Congress must stand up to its responsibility of adequately staffing the air traffic control system with qualified controllers so that we do not have the major worry that you just outlined.

I think we have a great group of people, including you. I don't mean to be critical of the air traffic controllers that we have now. No one is better than they.

I would also say that the people of the United States should understand that if everything were working perfectly, if all of that hardware that you said is not being used over there now because you don't have the software, if it all worked—we all make mistakes from time to time.

Mr. **Bellino**. Yes, indeed.

Senator **Exon**. And you happen to be in the business where the lives of an awful lot of people rest in your hands. So even the best are going to make a mistake once in a while. Even baseball umpires make mistakes once in a while.

I simply say that we have to have the backing and support of people like you to force the FAA to come up with answers and not excuses to what's been going on now for a long, long time.

Mr. **Bellino**. Yes, sir.

Senator **Exon**. And if we in the Congress can't get the job done, it will probably be because we do not have the backing of our constituents. Regardless of what the constituents think, however, I believe it's the job of those of us who are going to have the very heavy responsibility of trying to solve the problem. We will have to bring whatever pressure we need to bear, heat or otherwise, including, of all people, the President of the United States, who most people think should not be criticized for anything.

He is the ultimate authority. He is the individual who appoints the Secretary of Transportation, who has the authority to take whatever corrective action is necessary through the FAA.

I don't have any further questions of you. I just want to thank you once again for being here. I think you have been an extremely important witness.

Mr. **Bellino**. It's my pleasure, sir.

Senator **Kassebaum**. I would just like to ask for your thoughts concerning the proper number of controllers.

Obviously more air traffic controllers, everyone agreed, is important. But quality and training are also critical.

I have heard many, many people testify to have looked into it thoroughly, the Jones Commission and others, that it's not just always a question of numbers, but also of morale and management in the towers and centers. Do you agree that improving the environment and procedures in the towers could enhance the working environment to a better degree?

Mr. **Bellino**. Well, if I may—and I hate to be redundant—but the regulations as set forth by the FAA mandate a human relations council at each facility. Although it's mandated, its one thing we don't have at O'Hare.

Morale is very important. As a former military person my morale was based upon what my superiors were doing. If I felt that my superiors were supporting me, if I felt that they were not only supporting me, but would guide me and lead me along a path that would be safe, my morale was much higher than when I was with a superior who I had not confidence in. Senator, at O'Hare we have morale, in that we are air traffic controllers and we have confidence in what we are doing. But just as in Vietnam, there is a certain amount of support that is lacking.

We who are in the—as we call it, the front line and working the front line of air traffic control see our superiors just as we did in Vietnam; and I was a pathfinder in Vietnam. We see them sitting back at the NCO clubs and the officer clubs in Saigon saying, "Well, this is one hell of a war, huh?"

And we see the same thing happening with the air traffic control system. Given the 5-year mandate, the ability to correct the problem, rebuild the system, and to do nothing, I think is appalling. I think that in itself has many controllers looking and saying, "What in the world is going on here? Who is leading this place?"

I agree with you that morale is one thing and that numbers are only numbers. If controllers are not trained, they are no good. If there is a controller at O'Hare certified in a position, that controller is good. There only way that he can work at O'Hare is to be good.

See, if we could get the numbers, if we could get the people to train them, if there would be an organized effort to man the positions at O'Hare, you would have morale, because you wouldn't have 2½ hours on a position.

I'm just guessing. I would say at O'Hare, controllers makes 200 transmissions per hour. Each one of those transmissions doesn't say just, "Good day, good morning." Each one of those transmissions has to do with working aircraft that are aimed at each other at the same altitude and operating at very rapid speeds.

After 200 transmissions you start to wear down, after 300 transmissions you go further down; and if you work 2½ to 3 hours, you are making 600 transmissions. If you blow one, you have really blown it.

I feel that the air traffic controllers at O'Hare are the best in the world. I feel that I am one of the best in the world. However, when you pass—I know myself when I pass the hour and a half, the hour-and-45-minute mark—the way in which I just come across to the pilots is reduced and the way in which I feel about my job is reduced just a little bit and it continues on.

Numbers are definitely not the answer to the whole problem. However, you have to have somebody at the top making decisions that, "I want this position manned."

Don't tell me that everything's going swell. We have new computer equipment, so everything's wonderful. A computer is only as good as the entries that are placed in it; you and I both know that. You can have the greatest spread sheet in the world and one number off on that spread sheet and you blow the whole program.

The problem that we have is that we have people listening to yes men; "Yes, the system is rebuilt; yes, we have enough controllers; oh, we have too many controllers." My God, we don't need any more.

When we hear that at O'Hare, it certainly doesn't help our morale any, and then when we get with the Administrator we have and he says that he's been misquoted. He tells us a totally different story than when he's testified before Congress or the press.

I have a problem here. My problem is that I want to see the FAA be the best it can be. The best thing in the world I ever did was work airplanes. I have fought and I have struggled to maintain my position as an air traffic controller, and, thank goodness, I know I will be able to maintain it. No matter what your decisions are, Senators, I will continue to work airplanes. No matter what hours they are, I will continue to work airplanes.

However, what we have to look at is the overall picture. You can't run the place unless you staff it. It's real simple. I can't work radar if the radar doesn't work.

We had a situation the other night where a powerline was hit because of construction. We have all been expecting it. It happens. We have joked about it. A powerline was hit and the generator came on, as per required, and worked great. However, guidelines require a technician to check the generator every 15 minutes, because if that generator fails, we no longer have radar or radios.

Now, then, the regulations state that the FAA would have a technician with that generator checking it every 15 minutes to make sure it doesn't fail. That generator did not have a technician with it.

This may be minor and it works out fine in that the generator continued to function. The questions we have to look at as air traffic controllers is: What if that generator fails? Is there somebody there who can check on the other one?

Perhaps there was but it's the job of the FAA to make sure; and those guidelines have been set up because of past problems. It's just like the National Transportation Safety Board telling you that by two controllers sitting side by side, one controller watching what the other controller does, the problem will be avoided.

My goodness, Senator, we have had airplanes for so long and we have run across most problems in the past and our regulations have been based upon them so that we don't have near midair collisions. Yet if you don't follow those procedures, you are going to have problems. It's over and over again the same old thing. We are not talking about a new mousetrap, we are talking about one that's been around a long time.

Senator KASSEBAUM. Thank you.

Senator EXON. Madam Chairman, another question or two.

I was quite interested, Mr. Bellino, in your statement that some of your superiors say one thing when they are talking to you and——

Mr. BELLINO. Quite often.

Senator EXON [continuing]. Another thing to the press.

You also indicated that you are quite confident that the rules are not being followed with regard to the man that is supposed to be on duty there to check that generator every 15 minutes.

If something like that would happen and your total radar would go out, which can happen sometimes, because—I guess we all realize that even there are failures of missiles that we have tried and tried and—and tried again.

Mr. BELLINO. Yes, sir.

Senator EXON. Do you mean to tell me that there is a disinformation campaign going on also in some of the hierarchy of the Federal Aviation Administration?

Mr. BELLINO. There is no doubt in my mind, Senator.

Senator EXON. Let me ask you this question. We have had hearings on this subject before. Sometimes we don't get very far, but before the PATCO strike I believe it was more or less commonplace in a place like O'Hare for the—for experienced, qualified controllers to be on an 8-hour shift. Basically it was staggered so that they were actually on the radar screen directing traffic for 4 hours and then they were off for the same amount. They may have worked one on and had 1 hour off. Was it not commonplace for 4 on and 4 off for an 8-hour shift?

Mr. **Bellino**. I'm not sure about that, Senator. As little as 3 years ago a controller would work no more than 1½ hours and he was off the position for 30 minutes or he was off the position for 20 minutes. In effect, he was off the position for whatever length of time they could allow with the staffing and the staffing fluctuates. That is something no one has the ability to question the FAA on—even when there is a union—and staffing is structured by the FAA.

When we have 18 controllers on, we can accomplish training, we can accomplish breaks and controllers are not on a position longer than 1½ hours at a time, et cetera, et cetera.

We have gone as low as 12 controllers. This year, as a matter of fact, when we worked more traffic at O'Hare in the Tracon—I am talking about more than has ever been worked ever at O'Hare—we had 12 controllers on.

Senator **Exon**. Compared with what before?

Mr. **Bellino**. As compared to 18, 16 to 18.

Now, then, we were informed that there would be flow control restrictions because of the limited number of controllers.

My question to my supervisor and to my manager was, "If flow control restrictions are to be applied because of our reduced staffing to 12 and if we work more aircraft in the Tracon than has ever been worked before in this history of O'Hare, where were these flow control restrictions?"

I worked 3 hours on a position without a break. In my personal opinion it's excessive, it's totally excessive. As a human being and being proud of what I do, I can handle that, it's no problem, I'm good, I'm very good. However, it doesn't make any sense to me. It just makes no sense to me.

The staffing requirements should be set forth as per the traffic. If you don't have the people, you call them in until you can train the people.

I stated here that the FDEP was out on the 8th and the 28th and that all the strips had to be handwritten—all the clearances.

I was working on the 28th. There were no FDEP or flight data people on duty that night. The guy who was on duty called in sick and they chose to save the overtime by not calling a replacement in.

Granted, it's absolutely true that the flight data system will not fail every night; but it's like firemen, it's like police officers, you have them there at certain areas set up for specific duty times and duty hours to protect the population. It's the same thing with the technician, and they continue to cut the staffing for the technicians.

Senator **Exon**. Mr. Bellino, I just want to compliment the chairman right now. We have had hearings after hearings on this subject. I believe—and I have attended all of them—I believe that every time we have had a hearing with top officials of the FAA and the Department of Transportation there, the chairman has asked, "Are we providing enough money for you to fully fund for safety requirements around the Nation?"

Have you not asked that question in one form or another?

Senator **Kassebaum**. Yes; I think we all have.

Senator **Exon**. The answer always is yes.

Senator **Kassebaum**. Yes.

Mr. **Bellino**. Yes, we are.

Senator **Exon**. It indicates to me that they are not from the statements that you just made. One last point.

As an experienced air traffic controller, do you have anything to say about what I happen to feel is badly mishandling the situation with regard to the development air avoidance collision systems?

What has been your view of that as an expert in this area in the past several years, and do you think that the TCAS system that now seems to be pretty well generally approved in the different degrees is something that will be a major step towards solving this problem. If so, when do you think it is likely to come to pass, by 1990, as was testified by one of our witnesses this morning?

Mr. **Bellino**. Senator, the TCAS system cannot operate in an area such as O'Hare, because too many aircraft would be interpreting too many targets. So as far as being operational in the terminal area, I am not really certain. But I'm positive that the TCAS system is not the panacea that everyone's alluding to. That is No. 1.

No. 2, the TCAS system that is prescribed by the FAA as being implemented in the air carriers is not the TCAS system that the air carriers or the pilots want. The pilots want TCAS–3, not TCAS–2.

TCAS–2 that the FAA has mandated only allows the pilot to go up or down. The TCAS–3 allows him left or right. Every single pilot without fail that I have talked to says that he would prefer the operation of left-right and up or down rather than just up or down.

But the main thing is as far as the controllers is that if a system cannot be used in an area such as New York, Los Angeles or Chicago; if it can't be used at high-density facilities then it's really not much good.

It wouldn't have had any effect in the Palmdale incident, for example, because Los Angeles is such a high-density area and it would have to be turned off. It would be constantly telling the aircraft, "Go up, go down, go up, go down."

We ourselves have the collision avoidance system go on and off constantly throughout the day, and the reason that occurs is that we have so many aircraft aimed at each other descending. They are restricted above or below the oncoming aircraft. However, the computer doesn't know that.

Therefore, the collision avoidance or collision alert comes on but we have to inhibit it. Every single aircraft that operates within O'Hare or in a holding pattern would have to inhibit it. Had the FAA selected the up-down, left-right procedure, then an aircraft would have had the capability to turning off possibly the up-down version so that it can be used in a holding pattern.

Up and down: If that were turned off and the left and right kept functional, then that system would be correct because nobody is supposed to be with that aircraft at that altitude. However, the FAA chose the simpler of the two, which is not very efficient.

Senator EXON. What did you think—I suppose you are familiar with the ongoing controversy that became a constituent of mine by the name of Jim Pope, who has advocated the ACAS system.

What do you think of that system?

Mr. BELLINO. I can't comment on that, Senator. I am not familiar with that.

Senator EXON. I would like to put in the record at this time, Mr. Chairman, the statement by Mr. Pope and an affidavit by one of the real experts in the area of aviation safety with regard to the attitude that a whistleblower got into and was finally fired from the FAA because he had the courage to stand up and say the FAA was not doing what they were supposed to do.

So I just say that—if you will accept these in the record, I have no further questions. Thank you once again.

Senator KASSEBAUM. I, too, very much appreciate, Mr. Bellino, you being here. I would just like to make a comment, because I don't want to let it go by.

I don't really think it's a question of disinformation. I think it's a question of perhaps miscommunication and we need to do a better job of sorting through to discover where the problems lie.

But I personally know of no one who is more dedicated to the safety of the system than Admiral Engen, who is head of the Federal Aviation Administration. He has had to meet a lot of problems all at once, and I really don't think it's so much any intent to disinform as perhaps people just aren't as well informed as they should be all around.

Mr. BELLINO. If I may say, Senator, I know most of my comments sound negative, and it's very unfortunate and I feel terrible about that, becaue I love the air traffic control system. I mean I love being a controller. I'm here because I want to see it better.

I—I don't disagree with you, I'm sure that Admiral Engen is doing the best job he can; but just like a computer, he can only come up with conclusions based upon the information he's receiving. In my opinion, most of that information is flawed.

Senator KASSEBAUM. That is why I think Senator Exon and I both value your constructive criticism.

Mr. BELLINO. Thank you.

Senator KASSEBAUM. Thank you very much.

Senator EXON. Thank you, Mr. Bellino.

Senator KASSEBAUM. I think we will take a half-hour break now before the next panel.

[Recess.]

Senator KASSEBAUM. The hearing will resume.

Welcome to the third panel, and it's a pleasure to welcome Mr. Paul Bohr of the Federal Aviation Administration, who is director of the Great Lakes region, who is accompanied by Mr. Ted Burcham, Manager, Air Traffic Division, Great Lakes region. Welcome, Mr. Burcham.

Mr. Bohr.

STATEMENT OF PAUL BOHR, DIRECTOR, GREAT LAKES REGION, FEDERAL AVIATION ADMINISTRATION, ACCOMPANIED BY TED W. BURCHAM, MANAGER, AIR TRAFFIC DIVISION

Mr. BOHR. Thank you. I am Paul Bohr, Director of FAA's Great Lakes region. I am responsible for FAA activities in Ohio, Michigan, Indiana, Illinois, Wisconsin, Minnesota, South and North Dakota. I welcome the opportunity to appear before the subcommittee today to briefly describe operations at O'Hare Airport here in Chicago and to respond to questions you may have.

With me is Ted Burcham, manager of our Air Traffic Division.

At the outset, before discussing the current staffing situation at O'Hare, I would like to publicly note the fine job done by our air traffic controllers at O'Hare. These men and women work in one of the most active air traffic environments in the world and consistently perform their jobs with the highest professionalism.

I would like to take a moment to describe that air traffic environment for you. Average daily operations at O'Hare consisted of 2,076 operations in July 1981. In July 1986 that number had increased to 2,212 operations a day. We expect a slight increase in the future and project average daily operations to be about the 2,290 level in July 1987.

We actually have two air traffic control facilities housed at O'Hare, the tower cab and the O'Hare terminal radar approach control or Tracon.

Whereas in the past our controllers were generally trained to work in both areas of the facility, they are now assigned to either the tower cab or the Tracon.

Our authorized staffing in the tower consists of 28 full performance level or FPL air traffic controllers, 4 controllers in the training pipeline and 7 air traffic assistants. Air traffic assistants perform some duties of lesser complexity that before 1982 were performed by higher graded controller personnel.

As of November 1, 1986, our onboard staffing in the facility consisted of 28 FPL controllers, 9 controllers who have not yet attained FPL status, but who are certified to control traffic at some positions, and 5 controllers in the training pipeline and 12 air traffic assistants.

Authorized staffing in the Tracon consists of 58 FPL controllers, 7 controllers in the training pipeline and 7 air traffic assistants. Our onboard staffing in the Tracon as of November 1 was 38 FPL controllers, 9 controllers who have not yet attained FPL status, 2 controllers in the training pipeline and 5 air traffic assistants.

At this time I would like to emphasize one key point. Much focus has been placed on the number of FPL controllers and FAA facilities. While attaining FPL status denotes that an individual is certified to perform control duties on all required positions in a facility, we have always had controllers who have not yet attained FPL status, but who are highly qualified to perform the work of all of the positions on which they have been certified.

Much productive air traffic control work is performed by these controllers, who in a very real sense are the equivalent of an FPL on each position for which they have been certified. Therefore, the number of FPL's in a facility is not a true yardstick of the number of controllers in a facility who are qualified to independently control traffic. This is true not only at O'Hare, but nearly all air traffic control facilities in the United States.

I should also point out to the subcommittee that our staffing situation at any facility is a highly dynamic one. Numbers of FPL controllers or controllers in training change on a continual basis as we experience retirements, recruit new people or certify controllers on new positions of operation.

In fact, if changes are made in airspace assignments at a facility, some controllers assigned to new positions of operations may no longer be classified as an FPL unless they have checked out on the new position, even though they may have served as FPL controllers at that same facility for many years.

Virtually all of the controllers we bring into O'Hare are highly qualified controllers and many have years of FPL service at other FAA facilities before being selected to work at O'Hare.

An individual is initially assigned to O'Hare as a less than FPL controller, since to be an FPL the individual must be certified on all required positions with the new facility.

This is not to say that we are not working toward increasing our number of FPL controllers, we certainly are. Increasing the number of FPL's at a facility provides flexibility in scheduling of controllers and can reduce overtime requirements as well.

In addition to the controllers currently assigned to O'Hare, we have selected an additional six controllers for assignment to the Tracon and five for the tower, but they have not yet reported for duty. We are continuing efforts to identify good candidates for assignment to O'Hare and have made solid progress in our rebuilding efforts at this facility. In fact, our goal is to certify an additional 12 FPL controllers in the Tracon and seven in the tower cab during fiscal year.

In addition to our efforts to improve our staffing posture at O'Hare, we are continuing to upgrade the automated equipment in use at O'Hare. We currently have available to our controllers at that location the automated radar terminal system III, ARTS III, which provides continuous information on aircraft identity, altitude and speed, permitting our controllers to concentrate on aircraft control and separation.

We also have two flight data entry printout systems, which provide flight strip printouts on aircraft arrivals and departures for the Tracon and tower controllers.

Moreover, since 1984 we have had a low level wind shear alert system or LLWAS at O'Hare to provide pilots with information on hazardous wind conditions on or near the airport.

As I indicated a moment ago, we are beginning to upgrade the equipment available at O'Hare. For example, in February 1988, we expect to receive delivery of an ASR-9 airport surveillance radar, which will have improved aircraft detection capability for aircraft targets located over ground clutter. Further, it will provide six-level weather capability.

In 1990 we plan to replace the existing airport surface detection equipment radar, ASDE-2, with a new model, which will have greater weather penetration capability that will enhance runway and vehicle presentation to the controllers.

We also expect to have operational at O'Hare in 1989 an enhanced low level wind shear system with increased capabilities for detection of microburst and wind shear occurrence on the main runways for aircraft approaching or departing the airport.

A doppler weather radar system is also scheduled to be installed at O'Hare in 1990. This system will provide severe weather information for local air traffic controllers providing—by providing warning of localized wind shear, gust fronts, down bursts, and weather turbulence which could be hazardous to approaching or departing aircraft.

In short, we have a variety of equipment changes scheduled for O'Hare in the near-term, which will further improve our operational capabilities there.

In closing, Madam Chairman, I would like to reiterate my view that we have made solid progress at O'Hare in our rebuilding efforts.

Our staffing situation continues to improve and we are continuing to upgrade the equipment which is so vital to controllers and pilots. We continue to handle high volumes of traffic on a daily basis both safely and efficiently, and I have great confidence in our abilities to meet the challenges of our future, as well.

That completes my prepared statement, Madam Chairman. I would be pleased to respond to any questions that you or your members of the committee may have at this time.

Senator KASSEBAUM. Thank you very much, Mr. Bohr.

Senator Exon.

Mr. Burcham, do you have any comments you would like to make?

Mr. BURCHAM. No, ma'am.

Senator KASSEBAUM. I think he is just supporting Mr. Bohr.

Senator EXON. Thank you for coming to testify today, gentlemen. You heard—I believe you were both here to hear the testimony of Mr. Bellino, which seems to me in listening to his testimony and listening to yours, are radically different.

Let me see if—maybe I can ask you a question or two or get to the heart of that.

In Mr. Bellino's testimony he said the FAA not only contends that the air traffic control system has been rebuilt, but goes so far as to say that it is better in many respects than its predecessors. Is that the position of FAA and do you believe that the present system that we have is better than the one that we had before the strike?

Mr. BOHR. I'd like to respond initially to that, if I may, Senator, and then I will let Mr. Burcham add to it.

Yes, I do believe that we have a better system today than we did have. I would characterize our rebuilding efforts as one of continuing. I don't think we are where we ultimately want to be in our rebuilding effort, but we are working very hard at it, and I think we have made solid progress.

We had national goals in fiscal 1986 of 14,480 and our portion of that here in the region was exceeded. As you know, the Congress has imposed goals nationally in 1987 of 15,000 controllers; and I'm confident that we will be able to make the Great Lakes component of that increase, as well.

I would further state that one of the reasons that I believe that the system has been improved is that we are making progress in terms of the NAS modernization program, which has now been underway for several years; and I think that we are beginning to see, as I said in my prepared statement, some of the equipment that will be arriving on the site from that program.

Senator EXON. In talking about equipment, could you respond to the information that was presented here in the testimony from Mr. Bellino with regard to the considerable amount of hardware that has been purchased and installed, but no software to make it operate?

Mr. BOHR. I believe, Senator, if I may, I think you are making reference to the ARTS IIIA; and it is true that we do not have the full functional capability of the ARTS IIIA at O'Hare because it is what is known as a dual-sensor site—that is, we have two radars feeding that system—and the software for the dual-sensor sites has not yet been developed. So that component of the ARTS III automation is not fully functional as yet.

Senator EXON. To your knowledge was there an individual that, under the regulations of the FAA, was there to throw on manually, if necessary, the backup power supply to cover the situation that was referred to in the testimony by Mr. Bellino?

Mr. BOHR. Senator, I had an opportunity, having heard that testimony, to check on that; and my information is that there was a cable that was cut by a contractor, but let me say that the system worked exactly the way it was supposed to.

We have a backup engine generator which provides secondary power to the O'Hare traffic control tower, and when that cable was interrupted the backup power came on and the controllers saw little or no interruption to their power source.

We also have at O'Hare like many other facilities, what we call a conditioned power system, which is capable of providing a continuous power capability during the interruption—the brief interruption—of commercial power. So the system worked exactly the way it was supposed to.

My belief is that Mr. Bellino was in error when he said that we were supposed to have a technician watching that. We do not have any regulation that I am aware of that requires that they have a technician standing by watching a performing engine generator. Most of them operate in isolation at locations where we do not have manned facilities.

Senator EXON. Let me pursue that a little bit further, Mr. Bohr. As I understood it—and recognizing I am layman here, you people know the details of this—as I understood his testimony, it was to the fact that everything worked fine, the main power went out, when the main power went out, automatically the new generator came on.

I believe—at least what I got out of his testimony was that there has to be now a backup of some kind for the backup power that properly went on. His point was that there is supposed to be under FAA rules someone manually checking that third source of power, should the second source have failed.

Mr. BOHR. No, sir. I don't believe that to be true. I am not aware of any of our regulations that require us to have that.

We do, in fact, however, have an indication in the Tracon where the airway facilities personnel are able to monitor the engine generator and to make sure that it is, in fact, performing as it's supposed to.

Senator **Exon**. What happens—what would have happened at O'Hare that night or that day, when the main source of power failed and the automatic generator came on and filled the gap just as it was supposed to, had that source failed?

Mr. **Bohr**. We would have relied on the conditioned power system for the period of time that it would have carried the system. In the meantime, we would have called out a technician or we could have had our operations officer, who is on duty in the Tracon, go to repair the—to work on the engine generator since it's in the same building.

Senator **Exon**. Then are you telling me that under your interpretation of the rules and regulations that are in effect right now at the busiest airport in the world, we—after the main power source fails and if—and when the backup power comes on, we have no backup generator as a third source?

Mr. **Bohr**. We actually—Senator, if I may restate that, we actually have three sources of power, we have the normal commercial power provided to the facility, we have a backup engine generator and we have a conditioned——

Senator **Exon**. Which is the one that came on and did what it's supposed to do?

Mr. **Bohr**. Yes, sir.

Senator **Exon**. What about the third source?

Mr. **Bohr**. We have a conditioned power source, which will carry the facility for some period of time.

Senator **Exon**. What is a conditioned power source?

What is that, a third generator?

Mr. **Bohr**. No, sir. It's basically a set of batteries and some electrical switching gear.

Senator **Exon**. Is that also automatically controlled?

Mr. **Bohr**. Yes, sir.

Senator **Exon**. So that is the third source?

Mr. **Bohr**. Yes, sir.

Senator **Exon**. That would have come on line, you are telling me, if that second source had failed?

Mr. **Bohr**. And in between the two, between the commercial power failure and the engine generator coming up, it serves as a, if you will, buffer in between those two instances, yes, sir.

Senator **Exon**. It picks up the surge immediately?

Mr. **Bohr**. Yes, sir.

Senator **Exon**. Then the second generator starts up and it shuts off and—for backup power. But you are telling me that you don't need an operator standing there to do that?

Mr. **Bohr**. No, we do not. We have the capability of manning that and our people could get to that engine within a matter of a few minutes, if need be.

Senator **Exon**. Let me ask this question: You fly from time to time?

Mr. **Bohr**. Yes, sir, quite frequently.

Senator EXON. Am I wrong, then, in my feeling that I am not as safe flying into Chicago's O'Hare Field now as I was 5 years ago?

Mr. BOHR. I'm going to state your question in my works. I believe you are as safe flying into O'Hare in 1986 as you were 5 years ago in 1981, yes.

Senator EXON. Did we have all those near misses 5 years ago that we hear about today, but they just weren't reported?

Mr. BOHR. I think that there is a great deal of more attention being paid to that component. I believe our own Administrator has put emphasis on that to make sure that the reporting of near misses is adequately addressed, and I think that because of the interest in both the Congress and the flying public, we are seeing a lot more near misses reported in 1986 than we would have in 1981.

Senator EXON. What about the matter of the controllers?

The controllers—regardless of the number you have, the average controller, experienced controller today, is spending considerably more time on duty on screen than they were before the strike; is that right?

Mr. BOHR. I would respectfully disagree with that, Senator. Prior to 1981, because of the number of controllers we had, my data shows that controllers were spending less than 4 hours, perhaps, out of an 8-hour day on position.

Our data currently shows that at O'Hare, for example, the time is 4½ to 4 hours and 45 minutes per day, and not a continuous period, with staff that is relieved, a couple of hours on position and then relieved and switched to a different position.

Senator EXON. Do I take it, then, that you are saying that probably they are working maybe an average 45 minutes more per shift?

Mr. BOHR. That is my belief. If Mr. Burcham has other data or would like to characterize it differently——

Mr. BURCHAM. We really don't have records before the strike because of that length of time. Our best estimate is what you say is pretty accurate, around 45 minutes to an hour more, and that is spread over the 8-hour day.

Senator EXON. What about the future?

I have been reading some statistics and studies that have been conducted about the fact that we are going to have a significant number of most highly experienced people leaving the ATC system in the next 18 to 36 months. And that even if we could come up to full speed now, to where most of us would like to see it, we are still going to have a great difficulty and a great downgrading experiencewise in the controllers a few months from now, even more so than we have today.

Mr. BOHR. I am not aware of anything, say, perhaps further changes to the civil retirement system that might cause an aberration in the retirement rate; but I am not aware of anything that tells us that we are going to have a higher number of controllers retiring than we have had in the past several years.

I think that is part of our challenge in terms of maintaining the hiring rate, the training, the facility checkout, the OJT, on-the-job training, and the rest of the components of our work function to make a full performance level controller a full performance level controller.

Senator **Exon**. What is your feeling of the testimony given by Mr. Bellino this morning?

He was a very believable gentleman, and I can understand we can have difference of opinions and different shades of gray. But I thought it took a little courage for him to come in here into this kind of an arena, with his superior sitting in the back of the room.

I don't know why he would do that. He is obviously not one of these radicals that is just raising the devil about everything that is before us. He seemed like an individual to me who is genuinely concerned about the condition of O'Hare and our air traffic control system.

What is your evaluation of his testimony?

Did he—he just doesn't understand the situation?

Mr. **Bohr**. No. I think—first of all, I would like to remind the subcommittee that Mr. Bellino appeared here as a spokesman for a union which is attempting to organize air traffic controllers nationwide, so I think that that needs to be taken into consideration.

Mr. Bellino works for me, he is one of the 6,300 employees in the FAA Great Lakes region; and I certainly would not attack him on the basis of what he said here today.

I think, however, his perspective is significantly different than mine. I'm accountable for running the FAA Great Lakes region and I am the one that has to make the budget decisions and the staffings decisions in concert with Mr. Burcham and a number of other division managers there, so I think his perspective is significantly different than mine.

Senator **Exon**. Thank you, Mr. Bohr. I may ask a question later, but I appreciate your patience.

Senator **Kassebaum**. Very interesting questioning.

Mr. Bohr, I would like to ask you: How does the FAA establish traffic limits at O'Hare and how do you determine how much traffic a controller can handle?

Mr. **Bohr**. Well, I would like to take a cut at that first, and I may need some help from Teddy; but I would remind the panel that we have a high-density rule in effect at O'Hare, which limits the operations from, I believe, 6:45 in the morning until 9 o'clock or so at night to a specified limit of scheduled operations. So that is one aspect of the way we handle it.

In addition, we have flow control procedures that we can place in effect when the volume of traffic exceeds the acceptance rate at the airport, and, Teddy, I don't know if you have anything to——

Mr. **Burcham**. As we discussed the high density for the airport and the way we arrive at the number, the high-density rule actually reflects the capacity at the airport to be using two arrival runways under instrument conditions.

We do have the authority to approve extra flights if weather conditions permit, so the numbers arriving can fluctuate a little bit above the high-density rule numbers.

Senator **Kassebaum**. Is any human performance testing factored into this evaluation——

Mr. **Burcham**. I'm not sure, I'm really not.

Senator **Kassebaum** [continuing]. To determine how much a traffic controller——

Mr. **Bohr**. I think our procedures in terms of the separation criteria and those kinds of things are the limiting factors in terms of the 3 miles on final approach and that sort of thing that govern the acceptance rate of the runway; and, of course, the weather and other kinds of factors come into play in terms of how many runways you can use at any given time.

So I think from a given performance standard, the pilot's capability to land and get off the—clear the runway and those kinds of things are also factored into that.

Senator **Kassebaum**. So you have never done any real testing concerning a performance levels?

Mr. **Burcham**. Are you asking from a controller human performance aspect?

Senator **Kassebaum**. Yes.

Mr. **Burcham**. Not on the engineered performance standards, no. Each individual controller has a little bit different capability, and, however, there is a certain expectation we have before we qualify them on the position. We monitor them very closely to make sure that they meet those expectations, but as far as a formal human factor study in conjunction with the engineered performance standards, none that I am aware.

Senator **Kassebaum**. Have any of the regions conducted a human factors study?

Mr. **Bohr**. I am not aware, Senator, that they have. That kind of work would typically be done at our FAA technical center in Atlantic City if it were done.

I might suggest, however, that that kind of thing is done on a daily basis by virtue of the volume of traffic that we are handling and handling in a safe and efficient manner.

Senator **Kassebaum**. Well, it seems to me that there have been no real studies; except the Jones Commission report, which was prepared right after the strike. A followthrough, as you know, mentioned morale and so forth as being one of the major problems that had previously existed and still existed at the time of the study.

Mr. **Bohr**. I think—if I may respectfully suggest, I think that the Jones data is—you know, it's now 4 to 5 years old. I don't think that is really relevant.

Senator **Kassebaum**. Did they not do a followup about a year ago?

Mr. **Bohr**. One year later after that; but I think we have data that is much more current than that. The administrator has committed the agency to a biannual attitude survey followup of our employees, and we have just completed that and received the results of that and we are going to do that each 2 years.

So I think that the data that we have on hand upon which to base our action for the next few years is a lot more meaningful than that dating back to the Jones Committee—or era.

Senator **Kassebaum**. Well, one of the things you mentioned was the flow control——

Mr. **Bohr**. Yes, ma'am.

Senator **Kassebaum** [continuing]. Restriction, and Mr. Bellino mentioned that, indeed, that had been mandate and yet it was not being adhered to.

You are saying it is being practiced and implemented?

Mr. BOHR. I have every reason to believe——

Mr. BURCHAM. If I recall Mr. Bellino's testimony, I think he was talking about a specific evening or a specific situation, and I really can't respond to what he testified about without—without knowing the date or the situation he was talking about.

Senator KASSEBAUM. But the flow control restrictions as mandated have gone into place and are properly implemented, is that correct, here at O'Hare?

Mr. BURCHAM. Yes.

Senator KASSEBAUM. I'd like to ask you about what's called the snitch alert. I understand that is one of the devices used to proper separation of aircraft.

Is the alert ever turned off?

Mr. BOHR. I'm going to answer first and then I would like Teddy to amplify, but, first of all, the automated error detection program—I don't like the word, "snitch." I'm sorry.

Senator KASSEBAUM. Thank you. Well, I appreciate your giving me the accurate name.

Mr. BOHR. The term "snitch" has a common usage in the system, but I am afraid it derogates from what I think is a very important function of the computer, to tell us when we have a situation where we are going to have less than standard separation.

I would simply remind the committee that we do not have that in the terminal environment, but only in the enroute environment. I think it's contributed significantly to the safety of the enroute environment, and I am pleased that we have it in place; and I am not aware that it is ever turned off, but if I heard that, I would certainly be glad to follow up on it.

Senator KASSEBAUM. I understand that there have been stories here in Chicago that, indeed, it has been turned off and I just wondered if——

Mr. BOHR. I have not heard that.

Mr. BURCHAM. I first heard that story about a year ago, I guess; and we have done a lot of research and have been unable to identify where it has been. I cannot absolutely say it has not been but we can't identify it has been.

Senator KASSEBAUM. If it has been done, is it because of a capacity overload?

Mr. BOHR. No, ma'am. I would say no, absolutely and categorically no.

Senator KASSEBAUM. You talked about the number of the full performance level employees.

Mr. BOHR. Yes, ma'am.

Senator KASSEBAUM. How does O'Hare relate to the other large airports in terms of percentage of full performance level controllers.

Mr. BOHR. O'Hare is what is categorized as a level 5 terminal, and that's the highest order of terminals. That's the most complex terminal we have in the FAA.

Senator EXON. Is that—O'Hare is the one and only level 5?

Mr. BOHR. No, sir. We have O'Hare, Detroit, and Minneapolis. And I believe that Detroit is roughly comparable in staffing to O'Hare and that Minneapolis is relatively a little better off.

Mr. BURCHAM. Right.

Senator **Kassebaum**. Well, Minneapolis doesn't have quite the same number of problems.

Mr. **Bohr**. No, ma'am nor does Detroit; but in Detroit they are running about 1,400 or so airport operations and 2,000 at the Tracon versus what I mentioned in my statement here at O'Hare; but they are still both level 5 terminals. They have fewer people there, too, based on the staffing requirements for that workload.

Senator **Kassebaum**. I suppose, really, in many ways the full performance level can be shifted around and I don't know what that designation really indicates. I understand that sometimes people who are really very highly qualified can lose a certain level, is that not right, when they have been moved from one position to another?

Mr. **Bohr**. Yes, ma'am. I you were a full performance level controller in Detroit, a GS-14, at a level 5 facility, and you came to O'Hare, you would not be a full performance level controller, you would still be a GS-14; but you would have to go through the same checkout procedures at O'Hare as a person who came in at another grade or from another lower activity facility.

Senator **Kassebaum**. What percentage of operational controllers and developmental controllers do you have and how does that compare to the percent at facilities such as O'Hare?

Mr. **Bohr**. May I provide that for the record?

I can do that but I don't have that with me. I'm sorry.

Senator **Kassebaum**. I wish you would. Thank you.

Mr. **Bohr**. Yes, ma'am.

[The following information was subsequently received for the record:]

COMPARISON OF FPL PERCENTAGE LEVELS AT THREE LEVEL V TERMINAL FACILITIES

	Authorized	On-board	Percent of authorized FPL
Chicago/O'Hare Staffing as of Dec. 3, 1986 [1]			
Tracon:			
FPL	59	36	61
Partial qualified		13	
Pipeline	7	2	
Total	66	51	
Tower:			
FPL	32	28	88
Partial qualified		14	
Pipeline	4		
Total	36	42	
ATA's combined Tower and Tracon	19	16	
Minneapolis/St. Paul Int. Staffing as of Dec. 3, 1986			
Tracon:			
FPL	26	16	88
FPL GS-13 [2]		7	
Partial qualified		3	
Pipeline	4	4	
Total	30	30	

COMPARISON OF FPL PERCENTAGE LEVELS AT THREE LEVEL V TERMINAL FACILITIES—Continued

	Authorized	On-board	Percent of authorized FPL
Tower:			
FPL	19	10	53
FPL GS–12 [2]		2	
Partial qualified		5	
Pipeline	3	0	
Total	22	17	
ATA's combined Tower and Tracon	10	6	
Detroit Metro Staffing as of Dec. 3, 1986			
Tracon:			
FPL	42	25	60
Partial qualified		13	
Pipeline	4	2	
Total	46	40	
Tower:			
FPL	22	13	54
Partial qualified		7	
Pipeline	3	2	
Total	25	22	
ATA's combined tower and Tracon	13	9	

[1] Note.—Authorized staffing levels may differ from data at hearing since fiscal year 1987 allocations had not been made at that time.

[2] Note.—Fully qualified, awaiting time in grade for promotion.

Senator KASSEBAUM. Can you tell me, is it true that in January of 1987 the controllers here will work 6 days a week?

Mr. BOHR. Yes, ma'am. Starting in January we are going to start an intensive training program and we are going to ask that controllers do work a 6-day workweek so that we can provide the on-the-job training necessary to check out those 12 additional Tracon controllers that I mentioned in my statement. I believe the number was 12. Let me check.

Mr. BURCHAM. Twelve.

Mr. BOHR. Twelve in the Tracon and seven in the Tower Cab, yes, ma'am.

Senator KASSEBAUM. But everybody will be working 6 days?

Mr. BOHR. Yes.

Senator KASSEBAUM. How much of an increase in this over their current working conditions?

Mr. BOHR. That will be an increase, but I'm not sure I know how to quantify that increase just off the top of my head.

Mr. BURCHAM. I might qualify one thing. When we talked about everyone, we have people over there who have requested not to work overtime. We will try to avoid assigning overtime where we can. I believe the facility is averaging about 11 hours per pay period now or 11 hours every 2 weeks now, so that would be approximately an increase of approximately 4 hours per pay period, about 2 hours a week.

Senator KASSEBAUM. I would like to ask you about the high-low concept, if I could, for a moment.

Mr. BOHR. Yes, ma'am.

Senator KASSEBAUM. It is in place at O'Hare and——

Mr. **Bohr**. No, ma'am. I'm sorry. That is an en route function at the center, Chicago center.

Senator **Kassebaum**. I'm sorry. Yes, it is.

The Oleathe center in Kansas is one of the last and it is now to be implemented there, and there have been a number of controllers who believe that it doesn't serve well the type of center that Oleathe has been and there have been some very strong feeling expressed about the high-low concept.

One, it's expensive, they maintain, because of the new training that must result with the implementation, particularly at a time when it could well be obsolete as we phase in the Nasplan operations.

I have understood that there has been some concern that it isn't working all that well at this center, and I wonder if you could explain your thoughts about the high-low concept and whether you have any reservations about how well it's working here.

Mr. **Bohr**. I don't have any reservations. Senator, I'm sorry. I cannot comment specifically on the Kansas City center, because I do not know that environment.

Senator **Kassebaum**. No, I don't expect you to; but I'd like you to analyze it here.

Mr. **Bohr**. The high-low concept is a policy that the FAA made in 1982 or 1983. For certain reasons some centers delayed the implementation of that.

We chose to go ahead with the training because we were hiring new people and we felt it was better to train them in the high-low concept since that was the concept that they were going to be working for the next few years.

I think that we will have adequate time to amortize the cost of that training prior to going into the next mode of air traffic control which you mentioned in the Nasplan, since I think we are at least 6 or 8 years away from that in the so-called ACF or area control facility.

So I believe that it's working the way it was intended to work and that it's a national policy, and I believe one of its strengths of the air traffic control system is that we do things uniformly, we have a national set of procedures, separation criteria and all the rest, and we do need to do them the same all over the country so that pilots don't get confused by getting varied kinds of control environment instructions in various types of environments as opposed to another.

Senator **Kassebaum**. Do you have any questions?

Mr. **Exon**. One or two.

Mr. Bohr and Mr. Bucham, how long have you been in your present positions?

Mr. **Bohr**. In February 1987, Senator, I will have been there 5 years as the regional director.

Mr. **Exon**. As the regional director.

Mr. **Bohr**. I served as the airways facilities manager in the Rocky Mountain region, Colorado.

Mr. **Burcham**. I have been in the present position 7 months.

Mr. **Exon**. Before that?

Mr. **Burcham**. I was deputy to my present position for about 3½ years.

Mr. Exon. Three and one half years. Thank you.

Either one or both of you, please tell me how you view the FAA's activities in the last few years on a scale of 1 to 10, 1 being low and high being 10, with regard to an aggressive policy for some type of a workable airborne collision avoidance system.

Mr. Bohr. Well, I'm not technically competent to answer that. I know that there is a great deal of interest in assuring that we have, one, an airborne collision avoidance system in place. I think we are moving ahead.

We are going to start testing with Piedmont. If you want a number from me, I would say it's a seven or an eight, because we do have a workable TCAS-2 that is going to go into the Piedmont fleet in December of this year; and by the summer of 1987 we will have 15 airborne units and—including some on United and other air carriers.

So I think that because of the nature of the beast that we are trying to implement, we have to go at it slowly. I know some people are very impatient with our efforts that way, but I think that the integrity of what we need to do in that area requires that we assure ourselves that we, in fact, have a workable system before we implement it.

Mr. Exon. Mr. Buchman, do you have any comments on that?

Mr. Burcham. I don't believe I'm technically qualified to really comment on that, that's outside my domain, other than the fact that it will be used on the system which I have kept up with.

Senator Exon. You have heard the testimony by the air traffic controller here today that the airborne collision avoidance system being planned and programmed, which, I assume, is the same one that you, Mr. Bohr, said would be going into effect, would not be effective in the immediate area of O'Hare. Is that your understanding?

Mr. Bohr. No, sir, it's not.

Senator Exon. You think that is a mistake on his evaluation?

Mr. Bohr. I believe, Senator, if I may, you might be making reference to his comments about false alerts; and I think that is one characteristic of the system, that we have to assure ourselves that we don't get too many false alerts or the system will tend to be ignored.

Senator Exon. But from what you know of the system, you don't think—you think the false alerts have been corrected?

Mr. Bohr. I'm not sure to what extent that that problem has been solved but I—I am assured—I feel confident we will not implement until such time as that's been done.

Senator Exon. It took the FAA a long time, did it not, to come around to the position that we needed some kind of an airborne system to avoid midair collision?

Mr. Bohr. I think the FAA has worked on a collision avoidance system for a number of years. I have read the press and the industry papers on that for the last 10 or so years. But I believe it was our previous administrator, Lynn Helms, that finally made the decision that it would be an airborne-based system in 1981 or early 1982, the ACAS system.

Senator Exon. I beg your pardon?

Mr. Bohr. I believe it was Lynn Helms that selected the ACAS system—I'm sorry—the TCAS system.

Senator Exon. I was going to say not ACAS. I was ready to pounce on that so it is——

Mr. Bohr. I am glad I had an opportunity to correct myself.

Senator Exon. Do you have any feeling on that, Mr. Burcham?

Mr. Burcham. Just to reinforce one thing Mr. Bohr said, and that we will not allow that system to get into operation unless it's thoroughly tested and we are very comfortable with it and false alarms could be extremely hazardous, and that, I am sure, will be identified and corrected before it's put in the fleet.

Senator Exon. The reason I said that I was ready to pounce upon that, under democratic and republican leadership, this Senator, with Mr. Helms, the admiral and the ones that preceded them, I have been fighting almost alone the case of a whistle blower by the name of Jim Pope.

I assume you both are familiar with that case?

Mr. Bohr. I know the name. I have never worked directly with Mr. Pope so I really don't know any of the—any of the controversies surrounding that case.

Senator Exon. Do you, Mr. Burcham?

Mr. Burcham. I have heard the name and I am generally aware that he has complained about the way the FAA has progressed with the collision avoidance system; but that is about all I know about it.

Senator Exon. I was going to try to talk you into saying he was treated unfairly, but I think I'll not pursue that any further.

One last question.

Would each of you rehire under a dismissed air traffic controller on a case-by-case basis if you became convinced that we had a shortage of such personnel?

Mr. Bohr. Senator, that's—no, I would not. I think that that's a mistake to do that.

I have just become aware of the GAO results of the survey they did in terms of our work force, and I believe it's a mistake to bring those people back into the system. I think we are much better bringing the people in that we are bringing in. They are highly motivated, they are very professional and all we have to do is give them the opportunity to get the training and the experience and then go from there.

Senator Exon. I wouldn't necessarily agree with you, Mr. Bohr. But my question was: If you were faced with a shortage of controllers, would you go ahead with the shortage or would you hire on a case-by-case basis any of those fired air traffic controllers?

Mr. Bohr. I would prefer to go on the outside and hire people that we can be convinced are going to pull through.

Senator Exon. And if you did not have that option, would you still remain understaffed rather than going out and hiring some of those people on a case-by-case basis?

Mr. Bohr. No, sir. If you keep limiting my options, then I will have to retreat to a position where I would say that; but I would say that that would be the very last alternative that I would like to see us take, because I—and I don't foresee that we would ever get to that alternative. I think it's a mistake.

Senator Exon. That is a fair statement. I was trying to get you to simply say that you would not make a sacrifice for safety just because of some ideology.

Mr. Bohr. No, sir, I would not.

Senator Exon. Mr. Burcham.

Mr. Burcham. I concur with your summation of what he said.

Senator Exon. With that, I will conclude my questioning. Thank you, gentleman.

Senator Kassebaum. Senator Exon, Mr. Bellino did state that he felt that if, indeed, some of the guidelines already in place were followed, such as preventive maintenance, we wouldn't have some of the problems that we have; that if we were going by the guidelines already in place, we wouldn't be running into some of these problems or maybe it's just a question of numbers.

Would you care to comment?

Mr. Bohr. I am pleased that the subject of what I have called airway facilities staffing has come up, because I think very candidly that that is one area that I have to share concerns with this subcommittee.

I am pleased to say that I am very happy with what the Congress did in fiscal 1987. They added 359 positions and roughly half of the full-time equivalents and the money, I presume, to go with that to add some airway facility technician positions to our payroll.

We have not been able to hire in the airway facility work force for a considerable period of time, and that work force is getting a little bit older each year; and we are going to be faced with a significant number of retirements over the next 5 years.

Meanwhile, technology is changing and that sort of thing and we do need to keep a pipeline of airway facilities developmental technicians going so that we can always be able to cope with the workload in the future.

Senator Kassebaum. Thank you very much, Mr. Bohr, Mr. Burcham.

Mr. Bohr. Thank you.

Senator Kassebaum. I appreciate your testimony.

Last, but not least, it's a pleasure to welcome the fourth panel, beginning on the left with Mr. Earl Hord, who is acting aviation commissioner, who is accompanied by Mr. Jerome Butler, city of Chicago Department of Aviation; Mr. Bernard Hartman, who is director of planning and environmental programs, Lambert Field, St. Louis; and Mr. Ron Grear, manager of the Omaha Airport, Eppley Air Field, Omaha.

It's a pleasure to welcome all of you.

STATEMENTS OF EARL F. HORD, ACTING COMMISSIONER, DEPARTMENT OF AVIATION, ACCOMPANIED BY JEROME BUTLER, AVIATION COMMISSIONER, CITY OF CHICAGO; BERNARD D. HARTMAN, DIRECTOR OF PLANNING AND ENVIRONMENTAL AFFAIRS, LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT; AND RONALD B. GREAR, EXECUTIVE DIRECTOR, OMAHA AIRPORT AUTHORITY

Mr. Butler. Madam Chairman, Senator Exon, it's a distinct pleasure to be here today and to say that—how pleased we are to have this important hearing in the city of Chicago, the home of the world's busiest airport.

As the outgoing commissioner of aviation, it's also my pleasure to introduce the acting commissioner of aviation, who I have had the pleasure of working with for the last several years in his capacity as the deputy commissioner of the Department of Aviation. Earl Hord, Madam Chairman, will deliver the statement on behalf of the city.

Senator KASSEBAUM. Thank you.

In other words, the city of Chicago from the very beginning felt that the 8-percent tax collected by the Federal Government was inappropriate. We recognize, however, that to change that would be very difficult because it's very unpopular; and in your letter, Madam Chairman, you stated that the subcommittee wished to address the regional concerns related to the reauthorization of the Airport and Airway Improvement Act of 1982.

It's my understanding that the Aviation Subcommittee is not presently holding hearings on specific legislative proposals, but rather at this time you are interested in testimony concerning the National Airspace System, the Airport Improvement Program and the air traffic control system as these subjects relate to the Chicago area.

As I have heard, you have gotten testimony from experts, others with more direct responsibility and a higher level of expertise, regarding the air traffic control systems in the Chicago area. Thus, I will address my remarks to the Airport and Airway Improvement Act and the aviation trust fund.

The rationale associated with the defederalization approach is one that we feel is of sound management. As our testimony, the written documents, indicate, some $427.6 million will have been generated by Chicago's airports and deposited into the airport and airway trust fund over the 5-year period with the current end.

In return, Chicago will have received approximately $78.4 million in AIP funds. Had Chicago been granted the authority to impose the passenger facility charge, our estimates indicate that about $119.4 million or an additional $41 million would have been made available for airport improvement in the Chicago area.

We fully recognize that defederalization represents a major departure in airport funding assistance, and due to the lack of support from many sectors in the industry, its implementation is unlikely.

While the proposal to establish a Federal corporation to administer the Federal grant program may hold some interesting possibilities, the likelihood of its enactment by October 1, 1987, is not great. Thus, to prevent a lapse in Federal aid, prudence dictates that we work within the existing framework with certain modifications.

We would urge reauthorization of the Airport Improvement Act with assurances that all authorized funding levels from the trust fund are, in fact, appropriated and spent.

Currently the trust fund has an unobligated balance of some 4.6 billion. If this trend is to remain constant by 1990 the surplus balance would amount to nearly $12½ billion.

Clearly in view of the need to enhance airport safety, to respond to the demands for increased airport capacity and to reduce congestion, there is a need to fully fund the airport improvement plan.

Further, serious consideration should be given to removing the trust fund off the Federal unified budget. This approach would insure that the trust fund moneys would not be used to reduce the appearance of a Federal deficit, rather, they would stand a much better chance of being used for the intended purpose for which they were collected.

I appreciate the opportunity to address you and welcome questions.

[The statement follows:]

STATEMENT OF EARL F. HORD, ACTING COMMISSIONER, DEPARTMENT OF AVIATION

Good morning. I am Earl F. Hord, Acting Commissioner of Aviation for the city of Chicago. On behalf of Mayor Harold Washington and the city of Chicago, welcome to Chicago, the home of the world's busiest airport, Chicago O'Hare International Airport.

I appreciate the opportunity to appear before the Aviation Subcommittee of the U.S. Senate Committee on Commerce, Science, and Technology.

In your letter of invitation, Madame Chairman, you stated that the subcommittee wished to address regional concerns related to the reauthorization of the Airport and Airway Improvement Act of 1982 and the airport and airway trust fund. It is my understanding that the Aviation Subcommittee is not presently holding hearings on specific legislative proposals; but rather, at this time, you are interested in testimony concerning the national airspace system plan, the Airport Improvement Program and the air traffic control system as these subjects relate to the Chicago area.

As I am confident that you will be hearing expert testimony from others with a more direct responsibility and a higher level of expertise regarding the air traffic control system in the Chicago area thus, I will address my remarks to the Airport and Airway Improvement Act and the aviation trust fund.

In previous hearings, prior to the enactment of the 1982 AIP, the city of Chicago testified that we favored a program of defederalization with a reduction of the 8-percent ticket tax for originating passengers with the authority to establish a passenger facility charge. For a period of time, we believed that Congress might pass legislation enabling, at least, the 25 large hub airports to meet their own airport development needs through the use of locally enacted passenger facility charges. As you know, there was a great deal of opposition from the airlines and the Air Transport Association who claimed that the collection of such local charges would be an enormous accounting burden. Even with proposals to compensate or, at least, reimburse the airlines the cost of collecting the local passenger facility charges could not overcome the heavy opposition to that legislative proposal amd, in the end, the legislative process produced the law under which we have been operating since 1982.

As a hypothetical example, please consider this comparison. From 1982 through 1987, the life of the AIP program, we estimate that we will have generated 59,700,000 originating passengers. Assuming an average ticket price of $100 (it could be more, but probably not less) the 8-percent ticket tax generated approximately $427,600,000 for the aviation trust fund. During that same period of time, we estimate that Chicago will have received approximately $78,400,000 in Federal grant funds. Had the ticket tax been reduced to 4-percent and Chicago permitted to impose a $2 per passenger PRC, Chicago would have produced $119,400,000 for airport capital improvements. The 4 percent ticket tax would have produced $238,800,000 for the aviation trust fund and the net cost per passenger would have been $6 per ticket, instead of $8.

We still believe that defederalization of the large hub airports, a correspondent decrease in the ticket tax and locally imposed passenger facility charges would produce revenues sufficient to meet the capital needs of most, if not all, large hub airports without the delay of DOT/FAA administration and the annual dilemma of the statutory authorization of AIP versus Congress annual appropriations to fund programs from the aviation trust fund. We believe local government could collect and spend capital construction dollars far more efficiently than the DOT and the FAA can. That is not to say that there should not be a specific, identifiable, overall national airport system plan. We take no issue with the concept of overall system planning, as we believe it is in the best interest of a safe and efficient national air transportation system for the DOT/FAA to be responsible for formulations and coordination of the implementation of a national airport system plan. But the process by which we must obtain funds through an almost overwhelming Federal bureaucracy causes enormous waste and delay in producing much needed capital programs.

The use of the Aviation Trust Fund surplus in an effort to try to balance the Federal budget prohibits its usage for its intended purpose. The Aviation Trust Fund is user created. The monies come from an 8 percent ticket tax and a tax on general aviation fuel. Only those whose use the national air transportation system pay this tax. There is a corresponding belief and an expectation by those special use taxpayers that the monies so collected will be used to improve and develop the airport and airways systems in the United States. However, historically, appropriations have never met the statutory authorizations established by congress and the trust fund has grown to an unobligated balance of some $4.6 billion dollars. The Office of Management and Budget views a Federal dollar as a Federal dollar, once collected and deposited, regardless of its statutory special purpose. The larger the surplus in the Aviation Trust Fund, the less the deficit in the Federal budget. The ultimate goal of any new airport funding legislation should be to remove all airport funding from the congressional budget process. It simply doesn't work and the taxpayer isn't getting what they pay for.

It is not reasonable to assume that Congress will pass legislation which embraces any elements of defederalization with a passenger facility charge, as practical and as sound as it is for large hub airports, because it just isn't popular; it has too much opposition from the airlines, and even the airport industry can't agree on the proposal. It is more likely that Congress may consider a reauthorization package, while mulling over the Air Transport Association proposal of a separate Federal corporation to administer not only the air traffic system, but the Federal airport/airways improvement program as well. We would certainly urge action on a reauthorization bill rather than to allow a lapse in the AIP program as we had in 1981 and 1982.

It has been suggested that the administration may be working on a "plain vanilla" reauthorization bill which basically keeps the present program in place, but would add high FAA O&M (85 percent to 100 percent) to be paid from the aviation Trust Fund, no interest payments on the trust fund balance, the elimination of O&M penalty clauses, and perhaps a defederalization experiment for a few airports. The airport industry appears cautious and skeptical without a specific legislative proposal to analyze. Of particular concern to Chicago, is the desire of the DOT and FAA to include new grant provisions which would preclude airport operational restrictions without prior approval by the FAA. Tagging on to a Federal grant program, grant assurances which prohibit local government from exercising its proprietary rights for the protection of the health, safety and welfare of the local community may indeed raise major constitutional questions. Local government, of course, should not hold airport capacity hostage to local noise issues, but until the Federal Government is ready, willing, and able to take on the liability of noise at airports, it should not take away the right of local communities to try to effectively deal with local jurisdictional noise issues by Federal approval through grant assurances, as a condition to receiving Federal aid.

While the ATA proposal for a Federal corporation to administer a grant program has a great deal of interest in the aviation industry at the present, we think that it is an idea which needs time to mature and develop before we would be willing to endorse it. We believe that the wiser course of action would be to reauthorize a program which is partially working, and try to fix the parts that don't work. There have been several ideas which have been examined by this subcommittee, Madame Chairman, and by the House Aviation Subcommittee to take the trust fund out of the Federal unified budget. Perhaps reauthorization with an "insurance policy" for future funding would be the most appropriate approach at this time. The "insurance policy" for airports would be an automatic decrease in the passenger ticket tax level if full funding is not authorized by Congress in the appropriation process in any fiscal year for AIP and; perhaps, FAA F&E as well. This so-called "trigger tax" would provide the assurances airports are looking for and would go a long way toward solving one of the major flaws of the present program. Under the "trigger tax" concept, as long as the AIP and FAA's F&E receive their fully authorized funding, the airline ticket tax would remain at 8 percent; but, if funding was cut by congressional budget instructions below the statutory authorized levels in any fiscal year, the tax would automatically drop by more than the cuts would save. Such a device would penalize the congressional budget process more to cut airport funding levels than it would to leave them at the statutory levels intended by Congress. The trust fund revenues would never drop one penny so long as future budgets keep the agreed commitment of full funding for airport programs. Short of completely removing the trust fund from the Federal unified budget, this "trigger tax" device would go a long way toward getting future Congresses, OMB's and administrations to uphold funding commitments in a reauthorization bill because this penalty clause would directly affect the total annual Federal deficit.

In summary, Madame Chairman, we advocate that the devil you know is better than the devil you don't know. While defederalization with a passenger facility tax is highly attractive to Chicago, we do not hold false hopes that it could be widely endorsed and accepted by the aviation industry. While the ATA proposal for a Federal corporation to administer a Federal airport grant program has some interesting possibilities, it is an idea so bold and new, that it should be very carefully reviewed by various industry groups before being presented as a legislative proposal; and so, we are left with the devil we know. By reauthorizing the present bill with the improvements we have suggested, Congress can assure the continuity and continued development of the national airport system.

Thank you for the opportunity to appear before this subcommittee to express our opinions. We will be happy to try to answer your questions.

Senator **Kassebaum**. Mr. Hartman.

Mr. **Hartman**. Madam Chairman, Senator Exon, I'm Bernard Hartman, director of planning and environmental affairs at Lambert-St. Louis International Airport and past chairman of the Planning and Environmental Committee of the Airport Operators Council International.

It is from this perspective that I have come to view aircraft noise and airport capacity as a generalized local problem national in scope that requires an industrywide response and the firm leadership of Congress.

Airport access and capacity, along with system capacity, is recognized as a major constraint in the National Plan of Integrated Airport Systems. It is also recognized that aircraft noise constitutes the primary environmental constraint upon future capacity growth of the air transportation system.

We have heard so much in recent years about the cost of environmental programs that I completed a study on these costs to place them into perspective relative to the history of the airport and airway improvement trust fund and the Airport Improvement Program.

These environmental costs can be broken down into five basic categories: Airport noise mitigation; capacity and delay; research and development; retrofit or fleet modernization; and litigation.

The total cost of all five categories can be placed at about $815 million per year. This amounts to less then 1.3 percent of the combined revenues of the airlines, airports and FAA.

Noise programs are still not receiving the attention and support that they deserved. The largest annual expense by category is retrofit and fleet moderization with some $550 million attributable to noise reduction.

Even with a proposed early retirement on reengining of the stage 2 fleet, this category of cost should not be expected to change significantly. The estimated cost of carrying out the National Plan of Integrated Airport Systems was understated by several billion dollars. Current appropriations are at less than 60 percent of the level required to carry out the plan.

If capacity is a major constraint to airport access, this reduced funding level is a problem that must be resolved. The NPIAS should be advised to reflect near-term requirements for an additional $8 billion in capacity improvements.

AIP funding for airports should be increased by $300 million a year for capacity improvements and $100 million a year for noise mitigation to a total of $1.4 billion for fiscal year 1988.

Budget authority and the trust funds for the new AIP should be increased to $1.4 billlion per year beginning in 1988 with an allowance for incremental increases in subsequent years.

The efforts to remove the trust fund from the unified budget should be continued. Realizing OMB's resistance, we suggest a gradual reduction in the balance of trust funds that may be carried in the unified budget over the term of the new AIP Program. A percentage cap should be placed on the amount of trust funds used FAA for O and M. A portion of the trust funds should be set-aside to reestablish the FAA loan guarantee program for the acquistion of stage 3 aircraft and retrofit of stage 2 aircraft.

The FAA should ban the introduction of new stage 2 aircraft into the fleet that are not already under contract and FAA should require a cessation of stage 2 operations by 1995 or establish an equitable retirement schedule.

In the absence of any DOT/FAA leadership in dealing with these issues, the Congress should take the initiative and adopt legislation that would further the goals of developing a viable program for improving and expanding our national system of airports, the acceleration of fleet moderization and a reduction in aircraft noise.

Than you very much.

[The statement follows:]

STATEMENT OF BERNARD D. HARTMAN, DIRECTOR, PLANNING AND ENVIRONMENTAL AFFAIRS, LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT

Madam Chairman and Members of the Subcommittee: I am Bernard D. Hartman, Director of Planning and Environmental Affairs at Lambert-St. Louis International Airport, and past Chairman of the Planning and Environmental Committee of the Airport Operators Council International.

On behalf of the Chairman of the Airport Commission, we are pleased to have this opportunity to express our views on the critically important issues the Subcommittee has raised. Airport Access and Capacity, along with System Capacity, is recognized as a major constraint in the National Plan of Integrated Airport Systems. It is further recognized that aircraft noise constitutes the primary environmental constraint upon the present and future capacity of the air transportation system. Community opposition to aircraft noise has been a serious impediment to the construction of new airports or the expansion of existing airports.

I joined the staff at Lambert-St. Louis Airport in 1978 to assist in planning for the development and expansion of the Airport. Since 1978, at a cost of some $300 million, we have increased our capacity by more than 50%. But, early in the development of the Airport Layout Plan for the expansion of Lambert, we became aware of some very serious environmental implications. And I was asked to direct the effort to develop an off-airport noise mitigation program. I took on this responsibility fully expecting to find a cost effective way of solving "just" another airport problem.

But, after six years of effort, I feel like I have tackled a problem that is too big—the effort coming too late—and with too few resources. What I now see, is a local problem, national in scope, that requires an industry wide response. In spite of all our efforts, we may soon reach the point where environmental considerations will preclude any further expansion and increases in capacity at a number of this country's airports. It is because of these concerns that I am here today.

We do not believe that we have to satisfy a small minority of vocal complainers. And realistically—I'm not sure that we can satisfy the majority of residents around our airports—that group of conservative, middle America that sees the airport for what it is—the Gateway to our cities—and one of our greatest assets in terms of economic impact. But, we are expected to implement programs that will address community concerns—without doing undue harm to ourselves and the other elements of the industry.

We have heard so much in recent years about the cost of these programs that I completed a study on the cost of Noise Reduction, Abatement and Mitigation. In order to predict what must be done in the 1990's to reduce or contain the costs of noise abatement, I felt that it was necessary to document past costs. But also, in order to gain some perspective—some standard against which to measure the success of such programs—I also traced the regulatory process, the history of the Airport and Airway Improvement Trust Fund and the Airport Improvement Program.

A. WHAT PRICE NOISE ABATEMENT

I broke these costs down into five basic categories: Airport Noise Mitigation; Capacity/Delay; Research & Development; Retrofit/Fleet Modernization; and Litigation.

1. Airport noise mitigation

Airport noise mitigation costs are currently running at about $105 million per year—and increasing. This includes federal funds, local match on projects in which the FAA participates, the cost of other projects in which FAA does not participate, and the cost of operating noise abatement offices and noise monitoring systems.

2. Capacity/delay

Of the estimated $1.4 billion in airport delay costs for 1984, some $1.1 billion could be attributed to weather and system delays. Of the $300 million attributed to airports, about $150 million could be charged to airport management for their failure to provide capacity improvements, and for the delays caused by operational restrictions. The remainder of these costs could be attributed to scheduling and other factors over which airports exercise little or no control. However, in the future these costs will certainly increase exponentially if additional funds are not committed to the expansion of existing airports, the development of new airports, and for improved FAA facilities and equipment.

3. Research and development

Figures for the Research and Development category are not readily available. But, based on information provided by Boeing and General Electric, the costs exceed $10 million per year. In addition, it is estimated that the increased production costs of engines and nacelles to achieve noise reduction amount to about $300 thousand per installed engine. This added cost in hidden, but accounted for in aircraft replacement and fleet modernization cost estimates.

4. Retrofit/fleet modernization

Retrofit and re-engining of Stage 1 aircraft will have cost the airlines about $2 billion over the 10 year life of the program. About $200 million per year, with most of the cost behind them. Early fleet replacement to achieve Stage 2 compliance has cost the airlines an additional $350 million per year over the past 10 years.

It should be noted here that future fleet modernization costs attributable to early retirement of the Stage 2 fleet could amount to $300 million per year over 15 years—or about $600 million per year for 10 years—depending on whether the retirement date—if one is established—is set for the year 2000 or the end of 1995. This is about 50 percent less than the cost estimate contained in a recent FAA Study, which did not take into consideration the benefits of efficiencies in operation achievable in the newer aircraft; nor the added basic cost of more than $600 thousand per aircraft for noise reduction. These costs alone, would amount to about $150 to $200 million per year. Another, recently proposed, alternative is retrofit and re-engining of a portion of the Stage 2 fleet. These costs could range from $5 to $10 billion over the life of such a program. But, after weighing other factors such as the cost/benefit trade-off of extending the life of these aircraft compared to the capitalization required for fleet replacement, these costs virtually disappear. In either event, future costs for Retrofit/Fleet Modernization solely attributable to noise reduction should not be expected to change significantly.

5. Litigation

Excluding the cost to cure (which are included in other cost categories)—airports have only spent about a half a million per year on litigation. The number and dollar value of outstanding lawsuits is increasing—but there is no basis on which to project future costs.

The total cost for all five categories can be placed at more than $800 million per year—with 1984-85 as a base period—and without correcting past and future cost figures for inflation.

Depending on your point of view, this may or may not seem to be a significant figure. But, what it all boils down to, from this perspective, is that Airports and Airlines are each spending slightly more than 1 percent of their revenues on noise reduction. And the total expenditures for noise reduction amount to less than 1.3 percent of the combined revenues of the airlines, airports and FAA.

If aircraft noise is the primary constraint to access and capacity improvements—one could easily argue that noise programs are not receiving the attention that the issue deserves from either airports or the FAA. Nor are the programs receiving the support that they deserve from the airlines.

It is easier to put these past and future costs into perspective if you compare the figures with other aviation programs such as the National Plan of Integrated Airport Systems.

B. NATIONAL PLAN OF INTEGRATED AIRPORT SYSTEMS

System requirements as described in the plan are both understated and underfunded. The National Plan of Integrated Airport Systems—which estimated 10 year development costs at $18.3 billion through the year 1993—understated requirements by about $4 billion. No one could be expected to predict future requirements while the system was recovering from the PATCO strike, in the midst of a recession, and without knowing the impact that de-regulation might have. More recent estimates place the full tab at about $27 billion.

C. TRUST FUND

Budget authority for trust fund expenditures to accomplish the Plan was established at about 92 percent of the under-estimated requirements. And actual appropriations are running at about 79 percent of budget authority. This means that current and projected funding levels are at less than 60 percent of that required to carry out the Plan. If capacity is a major constraint to airport access—this reduced funding level is a problem that must be resolved.

1. Trust fund revenues

Revenues to the fund are currently running at $600 million per year in excess of expenditures—while the unobligated surplus now exceeds $3 billion—and is continuing to grow.

2. Trust fund outlays

The share of outlays going to airports has decreased from 50 percent in 1979 to 30 percent in 1985—while the share going to FAA for all programs except airports has increased from 50 percent to 70 percent. Consideration of all of these facts has led me to propose some recommendations.

D. RECOMMENDATIONS

1. National plan of integrated airport systems

a. The NPIAS should be revised to reflect the near term requirement for an additional $8 billion in capacity improvements.

2. Airport improvement program

a. AIP funding for airports should be increased by $300 million per year to accommodate required capacity improvements.

b. Funding for airport noise mitigation should be increased by $100 million per year to offset the adverse impacts of unanticipated growth—and to insure continued free access to our airports.

c. Actual funding levels should be increased to $1.4 billion per year.

3. Trust fund

a. Budget Authority in the Trust Fund for the new AIP should be increased from the current $1 billion per year to $1.4 billion per year beginning in 1988, with an allowance for incremental increases in subsequent years.

b. The Trust Fund should be taken off-budget to remove it from the budget deficit reduction process. This effort has recently failed again. But, the effort should be continued. Realizing OMB's resistance—we suggest a gradual reduction in the balance of Trust Funds that may be carried in the Unified Budget from year to year over the term of the next AIP program. It should be noted that all of our recommendations for increased funding, if adopted, would not result in a reduction in the unobligated Trust Fund balance.

c. A percentage cap should be placed on the amount of trust funds used by FAA for O & M to insure priority funding for Airport and Airway Improvements—the programs for which the Trust Fund was established. In order to do this, some surplus would have to be maintained to provide flexibility during downward trends in the economy.

d. A portion of the Trust Fund should be set-aside to re-establish the FAA loan guarantee program for the acquisition of Stage 3 aircraft—and/or retrofit of Stage 2 aircraft.

4. Fleet modernization

a. The FAA should ban the introduction of new Stage 2 aircraft into the fleet that are not already under contract—and the ban should also extend to the import of used Stage 2 aircraft into the domestic fleet.

b. And finally—FAA should require a cessation of Stage 2 operations by 1995—or establish a retirement schedule based on recovery of capital and an equitable return on investment.

5. Congressional initiative

To date, no one has been able to document that airport mandated restrictions are significantly restricting the capacity of individual airports, nor the national system of airports collectively. But, any federal policy addressing airport access and capacity must also address and resolve community concerns in the aircraft noise issue. The FAA has no policy or program for implementing any of the various options discussed in the FAA report on "Alternatives Available to Accelerate Commercial Airport Fleet Modernization." The FAA, for instance, has yet to act on the joint AOCI/N.O.I.S.E. petition calling for a rule-making to end production of turbojet aircraft that do not comply with Stage 3 noise standards of FAR Part 36. We believe that, in the absence of any DOT/FAA leadership in dealing with these issues, the Congress should take the initiative and adopt legislation that would further the goals of developing a viable program for improving and expanding our national system of airports, the acceleration of fleet modernization and a reduction in aircraft noise.

Adoption of the recommendations contained in this testimony will not solve our noise problem. But, it would most certainly make the problem more manageable. Thank you. I will be glad to answer any questions you may have.

Senator **Kassebaum**. Thank you, Mr. Hartman.

Mr. Grear.

Mr. **Grear**. Thank you, Madam Chairman, Senator Exon.

I'm Ronald B. Grear. My title is executive director for the Omaha Airport Authority, Omaha, NE. I appreciate the opportunity to be here to visit with you about suggestions I might have relative to the Airport and Airway Improvement Program.

We have long advocated the defederalization of airports, as was mentioned by the Chicago delegation. However, also being realistic, I think that the likelihood of success in that venture is remote. I do believe that there are some ways we can improve the Airport Aid Program, and I'd like to make a couple of suggestions.

The airport and airways trust fund should be removed from the unified Federal budget. I'm repeating an earlier testimony, but I think I'd like to emphasize that.

The trust fund is fully supported by taxes paid by the users and it was established for the purpose of providing a reliable and predictable funding source for capital improvement of the airports and airways systems. Also, there are some FAA operations and maintenance costs supported by the trust fund.

In 1982 the trust fund was renewed and user taxes were increased. At that time the users, airports included, supported the increased taxes because it was recognized that additional funds were needed to do the job that was before us.

Regrettably that program hasn't been fully funded. Every year needed capital improvements are deferred, while the trust fund balance continues to grow larger. That situation can best be cured by applying those trust fund moneys to the airport and airway improvement needs, as was the original intent of Congress. I submit that the way to do so is to separate the trust fund from the unified budget. That way it can stand alone as a true trust fund, acting as a conduit for funds to provide in an effective and an efficient way to meet the capital improvement needs in those airport and airway systems.

The job needs to be done in a timely fashion, and setting the trust fund outside the unified budget that is the best way to do so. In any event—and this has been mentioned many times today, too—the trust fund balance must be reduced. If we don't find the proper way to apply those funds in a timely fashion to improving the systems, then let's cut the taxes and not pour money into the fund. I can support either approach.

The airport trust fund should not bear the cost of the operation and maintenance of the FAA. I wouldn't advocate doing so for airports, either. I think that that trust fund should be reserved for the capital improvements needed. The FAA operating budget should be funded from the general fund, in my opinion. That in itself would provide the additional source of funds for the capital improvements we sorely need.

The other factor I think I should mention is in the procedures involved in the Federal grant program to airports, we have a multitude of assurances and conditions and certifications and so forth that are unnecessary in many cases, redundant in many other cases. I think that that whole area needs a very real intensive assessment as to how much of that is needed. It's unnecessary paperwork in many cases and costly in some cases.

As an example, among such things that prey on the airports so far as the paperwork is concerned and which does increase construction costs is the imposition of minimum wages rates.

I know a few years ago we attempted to remove that requirement by repealing the Davis-Bacon Act. It's an unnecessary thing among those rather onerous assurances and conditions we have to deal with. Thank you very much.

[The statement follows:]

Statement of Ronald B. Grear, Executive Director, Omaha Airport Authority

My name is Ronald B. Grear. I am the Executive Director of the Omaha Airport Authority. I appreciate the opportunity to offer my suggestions to the subcommittee regarding the future of the Airport and Airway Improvement Program.

We have long advocated the removal of the larger airports from the Airport Improvement Program (AIP) along with a commensurate reduction of the user taxes that support the Trust Fund. I still believe that such a course is in the best interest of civil aviation. However, being a realist, I'm not here to pursue that issue today. I do wish to offer for your consideration several suggestions that I believe will enhance the airport improvement program.

The Airport and Airway Trust Fund should be taken out of the unified federal budget to protect it from manipulation either for the purpose of understating the budget deficit or to constrain Federal spending. The Trust Fund is fully supported by taxes paid by users of the airport and airways system. The Trust Fund was established for the purpose of providing a reliable, predictable funding source for capital improvements to the airport and airways systems as well as for the operation and maintenance of the air traffic control system.

In 1982, the Trust Fund program was renewed and user taxes were increased. The users supported those increased taxes because they recognized additional funding was required to expand airport capacity and modernize the air traffic control system.

In 1982, the Trust Fund program was renewed and user taxes were increased. The users supported those increased taxes because they recognized additional funding was required to expand airport capacity and modernize the air traffic control system.

Regrettably, the program has not been fully funded and every year needed capital improvements are deferred while the Trust Fund balance grows larger. That situation can best be cured by applying those Trust Fund money to the airport and airway improvement needs as was the intent of the Congress. I submit that the way to do so is by the separation of the Trust Fund from the unified budget. It should stand alone as a true trust fund acting as a conduit for the effective and efficient flow of funds from the user taxpayers to airport and airway facilities providers, thereby assuring that tax receipts flowing into the Trust Fund flow out to improve the system in a timely fashion.

The Trust Fund balance must be reduced and maintained at a very modest level by either utilizing the funds for which intended or by reducing the user taxes flowing into the Fund.

FAA operations and maintenance costs should not be funded from the Trust Fund. Those costs should be borne by the general fund. Such a provision in the new legislation would relieve us of the perennial attempts by the administration to increase the relative share of operations and maintenance funding from the Trust Fund. There are airport and airways capital improvements needs of sufficient magnitude and priority that it is inappropriate to jeopardize airport and airway safety and capacity projects offering long term system benefits by applying Trust Fund moneys to FAA operations and maintenance expenses.

Sponsor assurances and similar conditions now incorporated into the Airport Improvement Program process should be thoroughly reviewed to ascertain if all are truly needed. Some are cumbersome, some are expensive, many are redundant and few are necessary. I will recite only a few general examples and urge that this entire area be scrutinized.

The prohibition of the granting of exclusive rights has been broadened in interpretation far beyond reality. The safety and economics of the situation must come in to play in the good management principles that airport operators should be allowed to apply to some situations.

The minimum wage rates applying to AIP construction contracts are an unneeded added cost factor in many projects. In this day and age the maintenance of a massive data system of approved wage rates is not needed. Minimum wage laws that the Department of Labor enforces, contractors' union contracts and the market place should prevail. Why burden the airport operator with redundant and abundant paper work and administrative/enforcement work?

In conclusion, we urge the Congress to make the Airport and Airways Trust Fund the vital vehicle that it can be to improve the airport and airway systems by:

Separating the Trust Fund from the unified federal budget.

Funding FAA operations and maintenance from the general fund.

Reducing the onerous assurances and conditions that apply to the grant process.

Thank you.

Senator **Kassebaum**. Thank you, Mr. Grear.

Mr. Hord, I would like to ask you first, given the physical constraints of expansion at O'Hare, could increased Federal funding be a practical answer for the existing groundsite overcrowding?

Mr. **Hord**. Yes, I think that it could be.

I should point out there was some testimony earlier that—where there was an implication that the city was not in compliance with the supreme and suburban neighbors; and I would like to set the record straight and then get to the question that you have asked, because they are related.

The identification of Federal funds to continue to enhance the capacity of the airport to move aircraft on the airsite would improve both safety, would reduce noise, could conceivably reduce air pollution.

Consider, if you will, that the development program was designed to have matched the air-fill capacity with the groundsite capacity. This process allows us to remove aircraft from circling above waiting to land. That reduces noise. It's designed to reduce the time you wait for any aircraft to take off. That reduces both noise and air pollution.

So if the funds are spent and spent appropriately, we would benefit in both ways, by both a reduction in noise and a reduction in air pollution and also respond to the demand for an improved capacity on the airsite.

The city of Chicago is in compliance with all of the requirements, the suburban neighbors, talk about noise and to deal with the issues relating to the development program, and we have been to court several times to prove it.

Senator **Kassebaum**. Does the city of Chicago offer users any incentives to use the reliever airports?

Mr. **Hord**. Well, we try to balance the use of the airports in Chicago.

We have three, as you know. Midway has shown remarkable growth recently and we think that because it is there, it has relieved some of the congestion and some of the demand for O'Hare; but we are operating the airports in a fashion that is akin to a free-market system, where the demands—where we are trying to respond to the demands of the air passenger, as opposed to controlling it and designing it on our own basis where air taffic should go. We think that it's a good system and that it's well balanced.

Senator **Kassebaum**. Does the city department of aviation coordinate with the department of aviation, Illinois?

Mr. **Hord**. Oh, yes.

We are constantly in touch with one another conducting joint studies on needs for air transportation, O'Hare Airport needs. They were part of the master plan study in the planning for the Airport Development Program. We work very closely with the State.

Senator **Kassebaum**. Mr. Hartman, if the FAA were to require a cessation of stage 2 operations by 1995, do you believe that airport operators in return should guarantee access to carriers whose equipment meets the stage 3 requirements?

Mr. **Hartman**. Yes, ma'am, I do.

Senator **Kassebaum**. You, then believe Lambert should guarantee access to stage 3 aircraft?

Mr. **Hartman**. Unequivocably, yes.

Senator **Kassebaum**. Any restrictions on time?

Mr. **Hartman**. No. No. At Lambert we have not really seriously considered any forms of curfews or operations of aircraft by type.

We have a large cargo type operation at Lambert between the hours of midnight and 5:30 in the morning. We would hope that eventually those aircraft would become stage 3 aircraft, and we would like to see the remainder of the aircraft in the entire fleet become stage 3, as well.

We do not see any resolution to our local noise problem without handling the problem on a national basis.

Senator **Kassebaum**. To what extent should local governments and communities rather than the Federal Government be involved in trying to set noise level standards?

I assume you might have been here earlier, when we discussed noise problems.

Mr. **Hartman**. Well, your question is difficult for me to answer, because we have taken an opposite approach to the problem.

Any time we have tried to reduce the noise levels, for instance, and in a given neighborhood or a given community, we will computer simulate various operational scenarios; and we will consider not only the benefits in terms of noise reduction, but also the cost of additional delays, and we will try to get some correlation between the two types of cost so that—well, we have a good balance there.

We have not looked so much at the idea of restrictions in our noise abatement programs as we have a reduction in noise through operational procedures that do not inherently increase delays or cost excessively in terms of noise mitigation.

Senator **Kassebaum**. Has it worked well for you in terms of your relationship to the surrounding communities?

Mr. **Hartman**. It worked very well for a few years. From about 1983 forward, we began to really experience the effects of deregulation, coming out of the recession, and the great increase in traffic that that brought. And all of the procedures that we had previously determined were acceptable up to a given level, up to around 360,000 operations a year, were acceptable to the communities.

But when we started approaching 425,000 operations a year or 450,000 operations a year that we will meet this year, then our previous programs are clearly unacceptable. We have had to go back and reinitiate a part 150 study to completely review everything that we have done in the past. We already know that our off airport mitigation noise program is going to cost double what we estimated the cost would be in 1982.

Senator **Exon**. Why is that?

Mr. **Hartman**. Lambert—and every airport is unique—Lambert is a landlocked airport. When I arrived there in 1978 we had about 2,100 acres and we now have bout 2,350 acres. That was done through a $55 million land acquisition program of noise impacted areas, of which we are about 75 or 80 percent complete with.

But in the meantime we have impacted through further noise increases almost an identical number of residential properties that we have removed.

Senator **Exon**. So the reason for the increased cost primarily had to require more land to meet what you thought were—what the people wanted with regard to noise abatement?

Mr. **Hartman**. Yes, sir.

In the meantime, we have achieved pretty good capacity gains at Lambert, too, so in a sense the things that you do for noise abatement and noise mitigation can create additional capacity.

But, as I mentioned earlier, we have reached a level where that perhaps no longer holds true. We are very concerned about future capacity at Lambert.

Senator **Kassebaum**. Mr. Grear, I have one question I would like to ask you.

Do you think it will be necessary to extend the essential air service program beyond the end of 1987?

Mr. GREAR. I would certainly urge that that be done. In our part of the country it's a very important facet of the business.

I think without the extension of that program, we are going to see that air service deteriorate to the point that it will almost disappear. The smaller regional commuter-type carriers, that don't strike some sort of solid arrangement with a major carrier will likely not survive in my opinion.

In fact, I would go so far—and I think maybe I have discussed this with Senator Exon—as to say that rather than retain money in the trust fund sitting there doing nothing, let's apply it to the extension of the essential air service program. That would be a suggestion I would make for your consideration.

Senator KASSEBAUM. Thank you very much.

Senator Exon.

Senator EXON. Thank you. I just have a couple of questions.

Ron, noise abatement has not been a major problem in Omaha, has it?

Mr. GREAR. Not really a major problem. We do have a noise problem. As you know, we are landlocked. We are nearly surrounded by the Missouri River. We are in loop in the river and across the river is Council Bluffs, IA. That is where our noise problem is.

Senator EXON. Let's just leave it over there.

Senator KASSEBAUM. Don't you wish they could all be solved that easily?

Senator EXON. Well, that's taken care of.

Mr. GREAR. We did—as Bernie mentioned a while ago, we did go through an ANCLUC evaluation of our noise. That was, I guess, the predecessor to the part 150 programs today. The ANCLUC process was very helpful in at least finding a common meeting ground for discussions between the sufferers of aircraft noise and the people making the noise.

We did create a noise abatement program, a voluntary procedural program with the FAA and the carriers. I guess if I were to assess how it's worked, it's worked fairly well.

We do need—and perhaps we can get some help from this subcommittee—we do need better assistance and better cooperation from the FAA and the airline people. We have used persuasion and it hasn't worked as well as we would like to see it work. The reason is that since we don't have major, activist noise abatement group, then the FAA and the carriers don't take it seriously enough.

Senator EXON. Mr. Hartman, were you up to the opening of the new facility last year in Omaha?

Mr. HARTMAN. No, sir, I wasn't.

Senator EXON. I wasn't either. I was strung out at your airport that Ron will remember.

Mr. GREAR. I remember that.

Senator EXON. I just have one last question. I want to first thank all of you for some excellent testimony. I just have one question.

I think—since I basically understand the problem with the slots in O'Hare, what is each of your recommendations, as to what we should be doing, if anything, at the Federal level with the matter of slots, or should we continue along on the present concept of allowing them to be bought and sold by the airlines.

Mr. HARTMAN. I'm going to—oh, I was—I was going to let the airport director respond to that question, sir. That's probably about the only issue that has been talked about here today that I am not really versed on at all.

Senator EXON. Ron.

Mr. GREAR. Of course, we don't have any slot problems in Omaha. However, I would be happy to respond.

I was a bit surprised to hear the United Airline representative earlier suggest that the slots issue at the high density rule airports could be resolved by letting nature take its course—by letting the system take care of itself. I agree.

Senator EXON. Are you talking about the buy-and-sell arrangement? Is that what you are referring to?

Mr. GREAR. Yes.

The airlines have nothing to sell. They don't own something tangible to sell. If there are such sales, it's a windfall type of thing. It's always bothered me.

I think that the number of capacity control type of airports—there only only three or four that are really seriously involved today—will be greater in the future. I think that if the system itself—the runway capacity, the airspace capacity—will control the number of operations at that airport. The economics of operating at an overly congested airport will come into play. Once it becomes too costly to operate at that airport due to delays, et cetera, the airlines will reduce their schedules to those impacted airports. So I'd let the system—the economics of it take care of itself.

Senator EXON. Mr. Hord, would you give us your opinion of that? How do you look at this buying and selling or auctioning?

Mr. HORD. Well, we think that the city of Chicago ought to be involved in the benefits of buying and selling slots.

Senator EXON. I thought you might have that idea.

Thank you very much.

Senator KASSEBAUM. Mr. Grear.

Mr. GREAR. One other point. We should give recognition to the recorder. I saw her sit here 3 hours this morning. She would make a very good air traffic controller.

Senator KASSEBAUM. I think that is certainly the truth.

Thank you very much. I appreciate all your testimony. Having heard the numerous questions that have been raised today, it's going to be interesting to participate in numerous hearings on this reauthorization legislation, which I do consider to be some of the most important aviation legislation before us. Thank you so much for getting us off to a good start, and I certainly do thank the recorder, as well.

Mr. GREAR. Thanks for the invitation.

[Whereupon at 3:45 p.m. the hearing was adjourned.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF JIM POPE

ANALYSIS OF GAO FACT SHEET ON MIDAIR COLLISION AVOIDANCE

Introduction

This report is a point-by-point analysis of the GAO fact sheet on midair collision avoidance, prepared at the request of Senator Exon. The central concern of the report is to identify those sections of the fact sheet which require further clarification through continued investigation and documentation.

There are three pervasive problems present in the fact sheet which should be corrected in any further investigation and report:

1. The fact sheet relies almost exclusively on the statements of current FAA employees to support its findings.

2. The findings of the fact sheet are unfalsifiable in that scant citations to authoritative documentation are provided.

3. The GAO has chosen to ignore documentation made available to them by outside interested parties which provides significant additional facts relevant to the inquiry.

In short, the fact sheet has not provided any advance in the analysis of this issue.

The point-by-point analysis which follows is organized in reference to each of the questions forwarded by Sen. Exon for investigation. The relevant responses of the GAO are included, as well as a brief notation regarding the problems present in each noted response.

Question: "Has an air-based Airborne Collision Avoidance System been available since 1975?"

GAO response: "[A]ccording to FAA, none could have been adopted for national implementation without additional work to correct technical and operational problems identified during FAA-sponsored testing." Fact Sheet, p. 4.

1. The statement is unfalsifiable: The fact sheet provides no reference to FAA support documentation for this conclusion.

2. The fact sheet does not address subsequent improvements in ACAS: The DOT has admitted that after the initial test results were released, technical interchanges resulted between the FAA and the ACAS manufacturer. The GAO did not pursue an investigation into the results of the interchanges or the subsequent status and viability of ACAS.

3. The GAO ignored available, significant information demonstrating that an ACAS met all of the objectives of the FAA: In December 1975 the FAA's 75-E7 report, supplied to GAO investigators by the Government Accountability Project (GAP), found that the Honeywell AVOIDS ACAS met all of the objectives of the agency.

GAO response: "[U]ser groups became interested in another technology, the Beacon Collision Avoidance System (BCAS)." Fact Sheet, p. 4.

1. The statement is unfalsifiable: The fact sheet provides no reference to FAA support documentation on user support for BCAS.

2. The GAO ignored available vital information revealing that user groups did not support BCAS:

a. User groups were never presented with ACAS as a viable alternative: Information supplied to GAO investigators by GAP demonstrates that user groups were never even presented with ACAS as an option. FAA literature to user groups characterized ACAS only as an alternative which had already been eliminated by the FAA.

b. Most user groups lack the technical expertise to evaluate fully information in the form supplied by the FAA on BCAS: Information supplied to GAO by GAP confirms that most user groups admit they lack the technical expertise necessary to evaluate highly technical and complicated systems as presented by the FAA for review and comment.

c. Statements of user group representatives contradict the FAA's claim of user group interest and support for BCAS: Statements of user group representatives, supplied to GAO by GAP, in user group journals and in testimony before Congress, reveal a widespread dissatisfaction with the FAA's BCAS program.

GAO response: "According to the FAA TCAS Program Manager, BCAS was chosen over ACAS primarily because FAA believed it offered a greater amount of immediate protection at less overall cost to the aviation community." Fact Sheet, p. 4.

1. The statement is unfalsifiable: The fact sheet provides no reference to FAA support documentation for its conclusions.

2. The GAO relied on an inherently prejudicial source for its investigation response: By relying exclusively on the FAA's own TCAS Program Manager the GAO has failed to povide an objective investigative response to this question. The TCAS Program Manager is primarily responsible for ensuring the certification and implementation of TCAS, and as such his statements concerning FAA decision on ACAS represent a conflict of interest.

3. The GAO ignored available, significant information demonstrating that the FAA could not, in good faith, have relied on the relative costs and potential protection of BCAS vs. ACAS to reach its decision:

a. FAA never provided a comprehensive cost analysis of BCAS: Information supplied to GAO by GAP details how the FAA never included in its cost analysis the enormous costs of the ground stations necessary for a BCAS program. Nor did FAA include the cost of manning and maintaining the ground stations once in place. The combined cost of building and maintaining a single ground station is estimated to be several hundred thousand dollars. By contrast, ACAS could have been produced in 1975 at a cost of $1,150 per general aviation aircraft, and $6,700 per commercial aircraft. While FAA presented only the partial costs of BCAS, the ACAS figures represented a total cost.

b. BCAS and its subsequent progeny not only failed to provide immediate protection, they have failed to provide any protection to date: In retrospect, there is no need to debate theories. The current lack of any viable midair collision avoidance system based on FAA designs is testimony to the inherent unreasonableness of the FAA's assertion that BCAS was chosen because it would provide immediate protection. On the other hand, in the 1975 75-E7 report FAA estimated that ACAS could provide effective coverage by 1983. Current estimates verify that ACAS could provide effective protection within three years of certification.

c. The FAA's BCAS, and subsequent TCAS, do not provide greater protection than ACAS, because they fail to effectively protect general aviation aircraft: Information supplied to GAO by GAP demonstrates that the FAA program fails to provide effective protection to general aviation, representing over 90% of the aircraft flying today. ACAS would provide protection to all aircraft. Therefore the FAA's assertion that BCAS was chosen because of its greater protection is false.

GAO response: "FAA also said that ACAS required additional work to correct a false alarm problem. . . ." Fact Sheet, p. 6.

1. The statement is unfalsifiable: The fact sheet provides no reference to FAA support documentation for the assertions that ACAS suffered a false alarm problem.

2. The GAO ignored available, significant information that the alleged ACAS "false alarm problem" is in fact a red herring:

a. Expert testimony repeatedly confirms that ACAS would not present false alarm problems: Affidavits of experts provided to GAO by GAP confirm that the FAA has exaggerated and improperly emphasized an alleged ACAS "false alarm problem" when in fact no such problem exists.

b. FAA officials admitted in testimony before Congress that no real false alarm problem existed in ACAS: Information supplied to GAO by GAP documents that under questioning by Congressman Robert Walker, the FAA's Martin Pozesky admitted that there was no evidence to indicate ACAS false alarms.

c. The GAO failed to analyze the impact of subsequent technical improvement on the status of ACAS in regard to the alleged false alarm problems: See Section II(A)(2).

The GAO response fails to directly address the question of ACAS availability: Instead of answering Senator Exon's question of ACAS availability, the GAO has presented what is essentially an FAA justification for abandoning ACAS. The fact sheet fails totally to develop the analysis of this issue.

1. The Honeywell avoids ACAS was available for immediate production in 1975: Private industry had developed and done pre-production work on an ACAS which by the FAA's own admission met all of the objectives of the agency by 1975.

2. The FAA stated that ACAS could have reached a high level of effectiveness by 1983: The FAA's 75–E7 report, supplied to GAO by GAP, stated that with an early decision for implementation ACAS could have provided effective protection by 1983. The fact that ACAS could have been considered for implementation in the 75–E7 report confirms that ACAS has indeed been available since 1975.

Question: "What is the difference between FAA's Traffic Alert and Collision Avoidance System (TCAS) and its predecessor, BCAS?"

GAO response: "FAA also said . . . that TCAS design included a lower-cost, less-capable model for general aviation." Fact Sheet, p. 7.

1. Current FAA plans do not call for the widespread implementation of a general aviation TCAS. In effect the FAA plan leaves over 90 percent of aircraft unprotected:

a. The "lower-cost" TCAS proposed for general aviation is still drastically more expensive than an ACAS model: The FAA's plan calls for the certification of a $4,000–$15,000 TCAS for general aviation, which would price it well beyond the means of most members of the general aviation community, and would effectively mean that general aviation aircraft would continue to be left unprotected. Information supplied to GAO by GAP demonstrates how a superior ACAS model for general aviation could be produced today for less than $1,000.

b. The general aviation TCAS model does not provide effective collision avoidance protection: Information supplied to GAO by GAP warns that the FAA's TCAS model for general aviation is nothing more than a proximity warning indicator (PWI)—that is, the system would merely warn the pilot that an intruder was entering his airspace but would provide no collision avoidance commands. These commands are the essence of any effective midair collision avoidance system. Ironically, the PWI concept was rejected by the FAA 20 years ago as inadequate and is considered by engineers in the field today to be a "dark ages" concept. A general aviation ACAS would provide pilots with the necessary avoidance maneuvers.

Question: "What is the projected date for commercial availability of the FAA's Traffic Alert and Collision Avoidance System (TCAS)?"

GAO response: "FAA's TCAS Program Manager told us that the first TCAS equipment, designed for air carrier, commuter, and corporate jet aircraft, will probably not be commercially available until around 1990." Fact Sheet, p. 9.

1. The statement is unfalsifiable: The fact sheet provides no reference to FAA support documentation for its estimates.

2. The GAO relies on an inherently prejudicial source for its investigation response: By relying exclusively on the opinion of FAA's own TCAS Program Manager, the GAO has failed to provide any objective data in response to this question. Because the TCAS Program is primarily responsible for ensuring the certification and implementation of TCAS, his statements concerning the commercial availability of TCAS are inherently prejudicial.

3. The FAA's projection is so full of qualifiers that it renders the projection meaningless: The TCAS Program Manager is careful to qualify his projected 1990 date for commercial availability of TCAS. By stating that TCAS will probably not be available until around 1990, he has failed to provide a firm estimate of TCAS's availability.

4. Given the history of the FAA's midair collision avoidance program, a projected availability for commercial TCAS by 1990 is overly optimistic: The FAA's in-house collision avoidance program has been repeatedly characterized by failure to meet its self-imposed deadlines for availability of a midair collision avoidance system. Most recently, testing of TCAS II was delayed for over a year due to safety questions raised by the FAA's own Office of Air Worthiness. The GAO fact sheet ignores the empirical evidence that the FAA's internal projections for commercial availability of TCAS are historically inaccurate.

GAO response: "[W]e were told by FAA program officials that, presently, general aviation is not very interested in acquiring TCAS equipment." Fact Sheet, p. 11.

1. The GAO report fails to explain why the general aviation community is uninterested in TCAS: Instead of recognizing the red flag sent up by general aviation's disinterest in TCAS, GAO has left the reasoning behind this lack of interest unexplained. It is not surprising that, presented with the current TCAS plan for general aviation—which is merely a high cost PWI—general aviation would show a lack of interest. General aviation has shown great interest in obtaining effective protection from midair collisions, but wisely is skeptical of the FAA's TCAS.

Question: "What are the comparative costs and effectiveness of the ACAS and TCAS systems?"

GAO response: "A meaningful comparison of cost and effectiveness cannot be made for ACAS and TCAS." Fact Sheet, p. 12.

1. The GAO's refusal to provide the requested information is unreasonable and evidences a lack of intestigative rigor on this issue: By refusing to pursue the requested comparison, GAO has fallen into the trap of the FAA's own rhetoric. Information supplied to GAO by GAP details how the FAA has repeatedly fabricated the assertion that no comparison is possible, when in fact such comparisons are quite possible and indeed have been produced by consulting engineers at the FAA's request. Of 228 midairs used in testing, ACAS could have prevented all of them versus 190 prevented by the FAA's DABS, and only 120 by the FFA's BCAS. In testing using 173 near midairs, ACAS prevented all of them versus 126 for DABS and 6 for BCAS. Empirical evidence obtained through comparison of the FAA's systems and ACAS carried out by the MITRE Corporation in 1976 confirms that a scientific comparison is possible and that ACAS provides superior protection. The GAO report dismisses the MITRE findings based only on the FAA's blind refusal to recognize the empirical data contained in them. This willingness by the GAO to accept at face value FAA dogma without any stated basis evidences a lack of rigor in the GAO's investigation of the entire matter.

GAO response: "Therefore, although ACAS may have cost less per unit, the overall costs to the aviation community could be greater to obtain effective protection." Fact Sheet, p. 12.

1. ACAS clearly costs less per unit: The GAO report states that ACAS "may" cost less per unit than TCAS. Current estimates of commercial TCAS costs run as high as $90,000 per unit, while a commercial ACAS could be produced for less than $6,750.

2. An ACAS program would incur less overall costs than TCAS: Information provided to GAO by GAP reveals that the FAA has never provided Congress, the aviation community or the general public with a full accounting of the total costs associated with TCAS. Although the FAA claims that TCAS requires no additional ground stations for its operation, in reality the TCAS general plan calls for reliance on a new transponder technology involving enormous costs for ground stations. The FAA assertions on the relative costs of ACAS and TCAS have been carefully based on the complete costs of ACAS and only a partial accounting of the FAA's own systems.

GAO response: "The cost to make a nationally workable AVOIDS today is unknown . . ." Fact Sheet, p. 12.

1. The GAO ignored available, significant information demonstrating that ACAS would cost less today than it did in 1975: Information supplied to GAO by GAP documents how technological advances in memory storage, retrieval systems and other ACAS hardware have reduced the cost of ACAS since 1975. Expert estimates, in an affidavit provided to GAO by GAP, put the cost of producing a general aviation ACAS today at less than $1,000.

GAO response: "FAA also said that the MITRE study did not reflect that BCAS protection was effective immediately . . ." Fact Sheet, p. 16.

1. The statement is unfalsifiable: The fact sheet provides no reference to FAA support documentation for its claim that BCAS would provide immediate protection.

2. The assertion was based on a false premise because in fact BCAS was not effective immediately: The FAA habitually claims that its proposed systems are effective immediately when in fact they still have not become available. Current estimates of ACAS production times reconfirm that the system could provide 100 percent protection within three years of certification. Expert assessments of the current availability of ACAS, supplied to GAO by GAP, state that within two years of certification 80 percent of all aircraft could be ACAS-equipped, and that by the end of a third year all aircraft could be equipped and all of the flying public effectively protected.

GAO response: "FAA also said that the MITRE study did not reflect . . . that the ACAS option would have cost 4½ times as much as BCAS." Fact Sheet, p. 16.

1. The statement is unfalsifiable: The fact sheet provides no reference to FAA support documentation for its claim that ACAS would cost 4½ times as much as BCAS.

2. FAA has totally misinformed GAO as to the costs of its systems: As discussed above (see Section V(B)(2)), information supplied to GAO by GAP traces how FAA failed to include the cost of building and maintaining the ground stations necessary in the BCAS scheme. ACAS costs were presented in their entirety, while BCAS estimates relied on were merely a partial accounting of the systems's enormous costs.

AFFIDAVIT OF DEAN A. STROMWALL

My name is Dean A. Stromwall. I reside at 6502 Kendale Lakes Dr., #203, Miami, Florida.

I am submitting this affidavit freely and voluntarily to Don Aplin, who has identified himself to me as an investigator with the Government Accountability Project.

This statement provides my comments on the whistleblowing allegations of Mr. James Pope that the Federal Aviation Administration (FAA) failed to implement an available, economical, and proven airborne collision avoidance system (ACAS) in favor of continuing their research and long-term development program into a technically weak and very expensive ground-based mid-air collision avoidance system.

I joined the Air Force in 1952 and was trained in air traffic control. I served in Japan during the Korean war as an air traffic control tower operator and approach controller. In May of 1957 I was hired by the Civil Aeronautics Administration as a controller at the Minneapolis Air Route Traffic Control Center. To expand my aviation background I began flight training in 1967 and by 1968 had my private and commercial licenses. In March 1968, I was selected by the State Department to a be a member of the Civil Aviation Assistance Group in Saigon, Vietnam, as an air traffic control advisor to the South Vietnamese government. I returned to the Minneapolis center in October 1969, and in February of 1970 I became an air traffic control instructor at the FAA academy in Oklahoma City. While in Oklahoma City I continued my flight training and received my instrument and multi-engine pilot ratings. In November 1970, I was promoted to FAA's Washington headquarters as a specialist on the Air Traffic Service Director's executive staff. In July of 1971, I became the air traffic control program specialist on the FAA's Office of General Aviation staff. In August 1976, I transferred to an ATC Assistant Chief/Area Manager position at San Juan, Puerto Rico.

Since August of 1978, I have been an Area Supervisor at Miami Center, actively engaged in air traffic control on a daily basis. To date, I have logged approximately 2,200 hours of flight time. I now have a type rating in a Cessna Citation executive jet.

While working in Washington from 1971 to 1976, I was responsible for investigating any proposed requirements that would have an impact on the air traffic control system and the air space users. I flew the FAA headquarters aircraft in nearly all my travel and thoroughly evaluated the impact of new procedural and avionic requirements in the interest of improving air traffic safety without undue restrictions and economic burden to the general aviation community.

As part of my duties I played a key role in the evaluation of collision avoidance systems that Mr. Pope refers to in his affidavit. I have studied the reports that Mr. Pope mentions.

In December 1971, the FAA was given a near mandate by Congress during hearings on Senate Bill S 2264, to evaluate and implement an airborne collision avoidance system (ACAS), preferably the McDonnell-Douglas TF System, by January 1973.

The McDonnell-Douglas Time Frequency CAS had been flown and tested by F4's and in the early 1970's was the front runner in airborne collision avoidance development. As far back as 1967, the Air Transport Association (ATA) began testing several time frequency systems and found them effective. ATA sought an endorsement by FAA and along with McDonnell-Douglas organized a strong lobby force in Congress which influenced Senator Frank Moss, Chairman of the Senate Commerce Committee Subcommittee on Aviation, to introduce bill S-2264. The bill required the mandatory implementation of an airborne collision avoidance system (ACAS).

Subsequent evaluations of major ACAS systems, completed in 1974, found that the Honeywell Avoids System had superior performance and lowest costs. The Honeywell system met all of the FAA's standards for an effective mid-air collision avoidance system. Also in 1974 it became clear to the FAA Office of Systems Engineering and Maintenance that the implementation of ACAS was a threat to the development of DABS/IPC.

I participated in several meetings of a group called separation assurance assessment analysis group (SAAAG). As the FAA developed its Aircraft Separation Assurance Program, the threat of ACAS was one of the primary reasons for developing an overall program that would leave out ACAS and push for the FAA's original DABS/IPC goal. An FAA report, "Investment Costs for CAS Alternatives" (EM-74-18) was written to support FAA's position on ACAS. The report made numerous invalid assumptions, and applied extremely inflated costs for ACAS, while conveniently eliminating costs for DABS/IPC.

MITRE Corporation studies completed in the fall of 1976 were obtained by Flight Line Times and published in their November 1976 issue. Although MITRE attempted to support FAA policy against ACAS, the statistical predictions were that ACAS was far more effective in preventing collisions and near collisions than the proposed DABS/IPC system. (Enclosure 1).

At the time all the FAA needed to do was write ACAS standards and specifications so that any ACAS that aviation electronic companies wanted to produce and market would be consistent with the Honeywell system and compatible with existing cockpit displays. That would have started private industry into an evolutionary, progressive ACAS marketing and improvement process with very little additional rulemaking to make ACAS mandatory, one study within the FAA indicated that every aircraft flying in the U.S. could be equipped with ACAS by 1985.

One study completed in March 1976 within the FAA indicated that every aircraft flying in the U.S. could be equipped with ACAS by 1985 and for a price $475,000,000 less than equipping with BCAS/IPC. (Enclosure 2). The report was presented as a formal briefing by Associate Administrator William Flener in early April 1976.

Early FAA action on standards and specifications for ACAS would have easily provided an efficient and economical backup to the Air Traffic Control System and ended any further FAA expenditure on DABS/IPC or the proposed BCAS system that the FAA realized they needed because DABS/IPC was still on the drawing boards and wouldn't be realized until the distant future.

The MITRE Corporation, which had been deeply involved in developing the algorithums for IPC, and was on a full-time R&D contract for FAA, provided extremely biased information to the FAA when evaluating alternatives in collision avoidance. They dwelled on the weakness of ACAS while playing up contrived strengths of DABS/IPC, the misleading nature of which was exposed by MITRE's predictions: ACAS would work, and the alternatives wouldn't. (Enclosure 3).

The FAA reported to Congress in a letter from the FAA Administrator to Senator Howard W. Cannon in February of 1976, claiming that the ACAS systems available suffered from too many false alarms and an incompatibility with the existing ATC system. These were completely false statements. The FAA had report No. IAA RD7210 which stated that the only ATC/ACAS interaction existed in the final approach zone. (Enclosure 4).

During a 1973 annual assembly of the Radio Technical Commission for Aeronautics Inc., Mr. David Israel reported the following regarding ATC compatibility, "Based on NAFEC interaction simulations to date, we feel that ATC procedures can be formulated to accommodate the time frequency CAS."

The FAA also had a report from the Institute for Defense Analysis which stated that the Honeywell ACAS system experienced less than one false alarm per 10,000 hours of operation in the 1982 Los Angeles Basin traffic model. (Enclosure 5). The report summarized that the AVOID System would function satisfactorily in the peak density projected by the FAA for the L.A. model.

The FAA totally based its contrary claim on tests that showed false alarms between traffic being turned on to a parallel approach course from opposite sides, and between successive arrivals being sequenced and spaced for final approach from the same side. FAA RD72-10 said "interaction and false alarms in the remainder of the terminal area is sparse and should not present operational problems which controller indoctrination and experience would not alleviate." Therefore, it was recognized that ACAS would operationally give way to the ATC tower clearances and control in the area close to the controlled airport environment. In the en-route environment there is no such thing as a false alarm with the Honeywell system. Any aircraft receiving an alarm in the enroute enviornment would be receiving an alarm since normal ATC separation minimums between aircraft would place other aircraft outside the normal interrogation distance for avoidance system coverage.

At the same time the FAA Engineering and Development staff fully recognized that BCAS had much greater false alarm problems. Because of the limited number of clear interrogations that could be made using the existing transponder frequency and signal format, BCAS could never be expected to operate in the terminal environment.

Any implementation of a system is normally incremental. Once a system meets minimum standards set by the FAA, as the Honeywell AVOID System did, it can be certified for implementation. Once implemented, the experience gained from the system's operation leads to a continuing improvement, sophistication, and increased effectiveness. The FAA can then set higher standards in accordance with technological improvements. This is exactly what has happened in the evolution of today's ATC Radar Beacon System Transponders (ATCRBS). The ATCRBS system has become so effective that it has eliminated the original reason for (DABS) and makes further development of Mode S transponders questionable.

The initial benefits of the Honeywell system as it existed in 1975 far outweighed any alleged problem with false alarms. By now any flaws in the Honeywell system would have been identified and corrected through normal incremental implementation, operational improvements, and advancements in the state of the art.

The FAA's ground-based collision avoidance systems, which were only conceptual and part of an expensive research and development effort, had many disadvantages when objectively compared to the fully tested ACAS. One major disadvantage is the lack of protection that continues to this day. While an available ACAS system was ignored, the FAA spent nearly 250 million dollars trying to get its various systems off of the drawing boards and in testing prototypes.

From my discussions with other controllers and a review of the public record, there have been several collisions and countless hear mid-air collisions that would have been prevented if ACAS were implemented in 1975. For instance, on January 1, 1984, a Pan Am Boeing B-747 en route from London to Miami and a Pan Am DC-10 en route from Dulles to Jamaica were both travelling at an altitude of 33,000 feet. Their paths crossed at a point over the Atlantic approximately 115 miles out of radar coverage. The only thing that prevented a collision was that the DC-10 pilot looked out of the cockpit window and saw the 747 converging from left to right. He dove the DC-10 and the 747 went over the top of his aircraft. A back-up system like ACAS would have given advance warnings in this situation of controller error. But the FAA's proposed DABS/IPC systems would not have been able to prevent this situation because the aircraft were outside the range of the proposed ground-based coverage.

As another example, in the fall of 1984, an Eastern Airliner northbound over Atlanta at 35,000 feet barely avoided a collision with a Military Tanker KC-135 which flew in front of the nose. The KC-135 transponder system had failed and air traffic control lost radar contact with the aircraft. The aircraft was also on a different frequency and accurate position reports were not obtained. The ATC System normally is able to do something to prevent such a situation, but the controllers failed to take appropriate action. Only luck prevented a collision.

A third example happened in November 1985, when a Nabisco corporate DA-50 jet was given erroneous traffic advisory information from air traffic control. The jet collided with a small private plane, killing six people and doing millions of dollars in property damage. Again, if the aircraft in these two examples had been equipped with ACAS, such as the Honeywell AVOIDS, the pilots would have received appropriate warnings followed by evasive climb or descent commands, which would have eliminated the possibility of a mid-air collision.

The United States has the finest ATC system in the world and air transportation is extremely safe, but a back-up system is needed to prevent situations like the ones above.

Mr. Pope is correct in saying that the FAA wanted to develop its own collision avoidance system and therefore chose alternatives that were neither reasonable, timely or economical. The FAA would not listen to operationally oriented reason and change course. Instead, FAA succeeded in establishing the unsuccessful pursuit of unrealistic methods of aircraft separation assurance.

The FAA paid little attention to cost considerations. The agency was well aware that the BCAS would only be an interim system of air collision avoidance until full implementation of DABS/IPC, but proceeded with this expensive stopgap anyway.

To receive the envisioned avoidance protection at an effective level the system user would have to buy BCAS and then DABS/IPC. Even then only the BCAS system would be operative outside of the ATC system's surveillance. BCAS is ineffective in high density areas. Piedmont Airlines evaluations of TCAS, the latest version of BCAS concepts, conducted in 1985 showed that the system could only handle a maximum of eight aircraft.

The FAA's Office of General Aviation did a comprehensive cost comparison of system acquisition between ACAS and BCAS/DABS/IPC in March of 1986. (Enclosure 2, supra). A collision avoidance system is effective only when all aircraft are equipped with a compatible system. To equip all aircraft, commercial airlines, military and general aviation, the report estimated the cost of an ACAS equipped fleet to be 352 million dollars. To equip the same number of aircraft, but achieve a less effective coverage, with the FAA's proposed BCAS/DABS/IPC would have cost approximately 827 million dollars.

Development costs weren't studied, because ACAS had already been developed by private industry. The FAA knew that they were facing unknown millions of dollars in development costs for BCAS/IPC. These cost study conclusions were presented to top level associate administrators in early 1976, but they were ignored.

The FAA may have gone down the path in good faith, with the decisionmakers listening to their electronic engineers and developers. But the FAA's track record over the past ten years with millions of dollars wasted and a series of failed collision avoidance systems makes one wonder why they haven't ever stopped the downslide and faced reality. The ACAS technology developed by Honeywell is still available and could be improved greatly with advanced technology. Here we are still without an effective back-up system to ATC and with the FAA still on square one, now calling the mid-term "Active BCAS" a "Threat Alert CAS." Unfortunately, they are all the same, with no chance of success.

I have read the above 11-page statement and swear that it is true, accurate and complete to the best of my knowledge and belief.

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